United States Court of Appeals

for the Second Circuit

EXHIBITS

76-7087

United States Court of Appeals

FOR THE SECOND CIRCUIT

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P/S

PAINE, WEBBER, JACKSON & CURTIS, INCORPORATED,

Plaintiff-Appellee,

—against—

INMOBILIARIA MELIA DE PUERTO RICO, INC.,

Defendant-Appellant.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

EXHIBIT VOLUME

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UNITED STATES COURT OF APPEALS
FILED
MAY 3 1976
A. DANIEL FUSARO, CLERK
SECOND CIRCUIT

EXHIBIT VOLUME

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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

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PAINE, WEBBER, JACKSON & CURTIS, INCORPORATED,

Plaintiff,

-against-

INMOBILIARIA MELIA DE PUERTO RICO, INC.,

Defendant.

73 Civ. 2422

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Deposition of Defendant, by MARTIN L. COHEN, taken by Plaintiff, pursuant to notice dated September 25, 1973, at the offices of Messrs. Dewey, Ballantine, Bushby, Palmer & Wood, 140 Broadway, New York, New York, on February 28, 1974 at 10:30 o'clock a.m., before Gerald I. Metz, a Certified Shorthand Reporter and Notary Public within and for the State of New York.

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BY: RICHARD F. HOROWITZ, ESQ.,
Of Counsel.

oOo

MR. HOROWITZ: This deposition will be conducted pursuant to the same stipulations that we entered into at the beginning of the Wilkes deposition; is that right, Mr. Carr?

MR. CARR: Yes, that's right.

M A R T I N L. C O H E N, called as a witness, having been first duly sworn by the Notary Public (Gerald I. Metz), was examined and testified as follows:

EXAMINATION BY

MR. CARR:

Q Mr. Cohen, would you state your address for the record.

A Business or home?

Q Your home address.

A 4 Sinclair Drive, Great Neck, New York.

Q Do you have a business address?

A Yes, I do.

Q Would you state that address.

A 1133 Avenue of the Americas.

Q Is that the offices of International Stretch Products?

A Yes, it is.

Q Are you currently employed?

A Yes, sir.

Q By whom?

A International Stretch Products, among other corporations that the family has.

Q Are you an officer of International Stretch Products?

A Yes, I am. I am chairman.

Q You are employed by that corporation?

A Yes. Chairman is an officer in this particular

case.

Q You mentioned other corporations that you are affiliated with. Would you give me the names of those corporations?

A Basic Equities and Development Corporation.

Q Are you an officer of that corporation?

A Yes. President.

Q Does that corporation have offices in the State of New York?

A No. Not to my knowledge. The offices are in Puerto Rico.

Q Is it a New York corporation?

A It's a Delaware corporation.

Q With its principal place of business in Puerto Rico?

A Its principal place of business and principal corporations, which Basic Equities is a holding corporation. The principal companies which it holds are Puerto Rican companies. It's office is in Puerto Rico.

Q Are you presently a director of any other corporations?

A Yes.

Q What are those corporations?

A Several real estate corporations, family controlled.

I couldn't even -- Marles.

Q Marles Equities?

A Yes. That's just one of them. Other companies here. Most of them are in Puerto Rico.

Q Would you say that most of your time is devoted to companies such as Marles and Basic Equities or to International Stretch?

A International Stretch.

Q What percentage of your time would you say that you devote to International Stretch?

MR. HOROWITZ: I object.

I don't want to be difficult, but what is the significance?

THE WITNESS: 95 percent to Stretch.

Q How long have you been affiliated with Basic Equities?

A Since its inception.

Q When was that?

A To my knowledge --

Q Just your best recollection.

A Ten years, approximately. I founded it.

Q You said that Basic Equities is a holdi company?

A For the most part, yes, it is.

Q Is it an operating company at all?

A I can't say. Technically, I don't know. In a legal sense, I don't know.

MR. HOROWITZ: Tell him what you understand that it does. What does it do?

THE WITNESS: Basic Equities has several wholly owned subsidiaries, mostly Puerto Rican corporations which are engaged in the real estate business in Puerto Rico only. Basic Equities does no business in the United States.

Q So you have been engaged, through Basic Equities at least, in the real estate business for at least ten years; is that correct?

A Yes.

Q Do you recall when the first discussion of the possible construction of an "apartotel" occurred?

A I would say about four years ago, to the best of my knowledge.

Q Do you recall who initiated those discussions?

A They were initiated by Mr. Fullana, Mr. Melia and myself.

Q Which Mr. Melia is that?

A Francisco.

Q Is that "Paco"?

A Yes.

Q Do you recall who initiated these discussions?

MR. HOROWITZ: You mean which of those people?

MR. CARR: Yes.

Q Which of the three of you came to the other?

A They came to me, as I recall.

MR. HOROWITZ: Just for the clarity of the record, do you remember which of the "they" came to you? I think that's what he is getting at.

THE WITNESS: I think it was probably Fullana first and then very shortly thereafter Mr. Melia.

Q Have you had any other business dealings in the past with Mr. Fullana?

A A very small nature, yes.

Q Had you had any other dealings with Mr. Melia or the Melia organization?

A No, sir.

Q You say this was about four years ago?

A Yes.

Q Did you have any correspondence with Mr. Fullana at that time about the proposed apartotel?

A I doubt it. We practically did everything in

person. I might have. I don't think so.

Q Were those discussions in Puerto Rico or in New York?

A Yes, Puerto Rico.

Q Did there come a time when Inmobiliaria Melia de Puerto Rico, Inc. was formed?

A It was formed before I joined them, to the best of my knowledge.

Q Do you know about when that was?

A About four years ago.

Q Do you know who the incorporators were?

A Well, the Melia family of Spain and Pedro Fullana.

Q That's a Puerto Rican corporation; is that correct?

A I believe his brother was involved at the time, Jaimie Fullana.

MR. HOROWITZ: Do you have another question pending that he didn't answer, whether it was a Puerto Rican company?

MR. CARR: Yes, I did.

MR. HOROWITZ: Is it a Puerto Rican company, do you know?

THE WITNESS: To the best of my knowledge, it is. I think it has to be.

Q So some time after the inception of the defendant corporation you became a stockholder; is that correct?

A Very shortly, yes, thereafter.

Q About how long after that?

A It could have been maybe a few months.

Q Did you become a director at the same time?

A Yes.

Q And an officer?

A Yes.

Q What office did you first hold?

A President.

Q Are you still the president?

A I think so, yes.

Q At that time who were the other stockholders when you first joined the defendant?

A To the best of my knowledge, the Melia family. It could have been the Melia family or it could have been Melia's -- I believe it was the Melia family, the father and son and the brother, Jamie Fullana and Pedro Fullana and in my case not just myself. I think it was myself and my brothers. It was Martin Cohen, Lester Cohen and Arthur Cohen, to the best of my knowledge.

Q Are all of those people still stockholders

in the defendant?

A Yes, sir.

Q What percentage of the stock did you and your two brothers hold?

A 50.

Q Did Basic Equities hold any of the stock or any other corporation controlled by them?

A I don't recall. I am not clear. I think it was done individually and then it might have been transferred to Basic Equities. I don't know who the stockholder at this moment is or became. It might be Basic Equities. It probably is.

MR. HOROWITZ: In other words, your testimony is that either --

THE WITNESS: It's either the Cohens or Basic Equities have 50 percent. The Cohens own all of Basic Equities.

Q Does the defendant corporation hold meetings of the board of directors from time to time?

A Yes.

Q Approximately how often are those meetings?

A Very often, but they are not formal.

Q Are any minutes kept?

A No.

Q Are any notes made of those meetings?

A No. From time to time there have been, I believe, formal meetings. But very infrequently.

Q No minutes are kept even of the formal meetings; is that correct?

A I don't really know. I don't recall.

Q Prior to this deposition, did you or your counsel receive a request for production of documents?

MR. HOROWITZ: I will volunteer that I did.

Q You have examined your files and the files of the defendant in responding to that request?

A Yes.

Q You have come across no minutes of board of directors' meetings relating to the subject matter of this litigation; is that correct, or that would be responsive to the notice to produce?

A Yes, that is correct.

When you refer to "board of directors", you mean a meeting of Basic Equities?

Q No. I mean of Inmobiliaria.

A You are referring to meetings of Inmobiliaria Melia.

I don't recall then if there were minutes

kept. There may be. Fullana may have minutes.

MR. HOROWITZ: If there were minutes, where would they be?

THE WITNESS: Fullana would have them.

MR. HOROWITZ: In Puerto Rico?

THE WITNESS: Of course. The meetings would all be in Puerto Rico. It's very rarely that we would ever have any meeting anywhere but Puerto Rico. If they would be other than Puerto Rico, they would be in Spain.

MR. CARR: Could I ask you whether Mr. Fullana's files have been examined?

MR. HOROWITZ: I don't know personally. I am advised that Mr. Cohen just returned from Puerto Rico and that a request was made by him.

THE WITNESS: Examine his files.

MR. HOROWITZ: He didn't examine his files.

THE WITNESS: They could be examined if you want. We have access to them. We could send you whatever you ask for.

Q My understanding was that the only documents in Puerto Rico which were responsive to the request for production were these documents which were sent to me on

Monday by Mr. Horowitz.

MR. HOROWITZ: That's not correct, sir. In fact, I have been advised that there are documents that were sent to me, I believe, on Tuesday from Puerto Rico. Mr. Cohen just returned from Puerto Rico last night. They were unfortunately mailed to my office. I checked with my office before we came down here and they had not been received as yet. But I have left word with a responsible person at my office that he should call me here and arrange to bring them here as soon as they are received. Now, I make no guarantee about the United States mails.

THE WITNESS: You will have them the latest tomorrow.

I don't know if there is anything different that you are going to receive than what you already have. I just mailed you whatever they had.

MR. HOROWITZ: I am also reviewing briefly the notice to produce, and perhaps it's a failure of communica n, but I did not understand from it that counsel wanted meetings of the board of directors. I have no problem producing it, if

we have them, but I was not really aware that you wanted them.

MR. CARR: I don't really ask for minutes or records of meetings or conferences in the definition of documents, and of course we request those minutes only insofar as they fall within one of the numbered items that we request.

MR. HOROWITZ: I didn't understand specifically that you wanted minutes of board of directors' meetings. We will, of course, endeavor to locate them presumably in Puerto Rico.

THE WITNESS: They would only be in Puerto Rico.

MR. CARR: Fine, thank you.

Q Going back for a moment to the time you joined Inmobiliaria, for what purpose was that corporation formed?

A Inmobiliaria?

Q Yes.

MR. HOROWITZ: His understanding or what the certificate said?

Q Your understanding of why it was formed.

A For the purpose of land, for the ultimate purpose of building an apartotel.

Q Was the project to be an apartotel from the beginning or was there some talk of perhaps a construction of a hotel?

A Never a hotel.

Q So it has always been an apartotel?

A Yes.

Q Have you ever been involved in the construction of an apartotel before?

A No.

Q After you became associated with the defendant, did you have any discussions about obtaining financing for the proposed apartotel?

MR. HOROWITZ: Discussions with anybody?

Q Discussions with anybody.

A With my partners, yes.

Q With anyone else that you recall?

Let's limit it to discussions with your partners.

A Yes.

Q This would be at any ti after you joined the company until January of '72.

A Yes.

Q What was the substance of those discussions?

A I don't recall what the substance was, but obviously I believe, as my memory serves me, that Fullana said that he would be the most logical one to obtain the financing because of the fact that he was in the finance type-- mortgage type business and he did most of the legwork and most of the -- I shouldn't say "legwork". He instituted most of the attempts at getting financing.

Q Did he contact potential lenders?

A Oh, yes. Sometimes by himself. Usually by himself or with one of my people.

Q I take it that those efforts during that time were unsuccessful; is that correct?

MR. HOROWITZ: Wait a minute.

A It depends what time.

MR. HOROWITZ: What time period?

Q From the time you joined the defendant until January of '72.

MR. HOROWITZ: I --

A I can't say that.

MR. HOROWITZ: All right, fine.

Q Do you know what results Mr. Fullana's efforts achieved, if any?

A I would have to say that the ultimate financing

was the result of Mr. Fullana's efforts.

Q That came some time in the fall of '72, I guess; is that right?

MR. HOROWITZ: We have the document right here. I think that's the best evidence of it. It is the fall of '72. It's dated October 31, '72.

MR. CARR: Why don't we mark this.

THE WITNESS: The fall of '72.

MR. CARR: I ask that this document which is entitled "Loan and Pledge Agreement", dated October 31, 1972, be marked as Plaintiff's Exhibit 1 for identification.

(A document entitled "Loan and Pledge Agreement", dated October 31, 1972, was marked Plaintiff's Exhibit 1 for identification, as of this date.)

Q Going back to the period prior to January of '72, are you aware of any specific attempts Mr. Fullana may have made to obtain financing for the apartotel?

MR. HOROWITZ: What do you mean by "aware", that Fullana told him about it or that he witnessed it personally?

Q Either. Do you have any knowledge?

A Well, I know that he approached several lenders.

Q Do you know what was said between Mr. Fullana and the lenders?

A He explained to them the apartotel concept and went into detail because most of the banks did not understand the apartotel concept in those days, and the object being to obtain stand-by and construction loan, usually in the absence of a permanent loan. He attempted also to get permanent financing, but in the absence of permanent financing most banks or lenders would require a stand-by loan as a take-out against their construction loan. So that he negotiated with many lenders to get this, with several.

Q Do you know the names of those lenders?

A I know the names of a few of them.

MR. HOROWITZ: Tell him those that you recall.

THE WITNESS: First National City Bank. He spoke to brokers in Puerto Rico. He went to Banco Ponce. He went to Bank of San Juan. HIC, Chase, many lenders.

Q Do you know approximately the amount of the loan Mr. Fullana was seeking at that time?

MR. HOROWITZ: The principal amount?

MR. CARR: The principal amount, yes.

A He was seeking somewhere between -- about $19-million or something like that.

Q Do you know whether Mr. Fullana or anyone else retained a broker at that time?

MR. HOROWITZ: You mean prior to January of '72?

MR. CARR: Prior to January of '72.

A I know Mr. Fullana spoke to several brokers. He gave nobody an exclusive.

Q Do you know whether he ever entered into an agreement with any broker at that time?

A Yes.

Q Do you know the name of that broker?

A Paine, Weber.

MR. HOROWITZ: Wait a minute. Paine, Weber is after January of '72.

THE WITNESS: I don't know the date. I know he did.

What date did you say?

MR. CARR: Prior to January of '72.

THE WITNESS: A formal agreement with any broker?

MR. HOROWITZ: A written agreement?

THE WITNESS: I don't know. I doubt it. I don't think so, but I don't know.

Q Do you have any personal knowledge of the substance of Mr. Fullana's discussions with HIC or the Chase at that time?

A Just rough knowledge that he was applying for construction, stand-by loan for $18 million or $19-million, and he spent a good deal of time explaining the concept which has been successful in Europe which has never been done in Puerto Rico.

Q Did Mr. Fullana tell you about these discussions?

A Yes.

Q Did you ever speak to anyone at HIC or the Chase at that time?

A Yes. I spoke to Chase, I believe, and -- at that time?

Q Yes. Prior to January of '72.

A I don't recall the exact time. I couldn't answer that.

MR. HOROWITZ: Give him your best recollection as to when.

THE WITNESS: My best recollection --

in addition to Fullana, I also saw National City Bank and Chase.

MR. HOROWITZ: Do you have any idea when?

THE WITNESS: Before January of '72.

Q Is this Chase's San Juan office?

A Yes.

Q Do you recall who it was that you talked to at the Chase office in San Juan?

A It would have been Mr. De Jesus, to the best of my knowledge. And at the First National City Bank it was Mr. Socoras.

Q Had you known Mr. De Jesus prior to that time?

A Yes.

Q Had you had other business dealings with him?

A Yes.

Q What was the substance of this conversation or these conversations with Mr. De Jesus?

A We asked for a mortgage.

Q What was his response?

A His response was negative. He didn't understand it. He wasn't familiar with it. He wasn't in the

market for those kinds of loans, as I recall.

Q Did you talk to Mr. De Jesus more than once?

A No. I think just once. We also contacted Banco Popular, which is a big bank down there.

Q Did Mr. Fullana make that contact?

A I believe so; yes.

Q I believe it was your testimony that Mr. Fullana talked to HIC, or did you talk to HIC?

A I believe it was Mr. Fullana.

Q Did Mr. Fullana tell you the substance of those discussions?

A I don't recall.

Q Did there come a time when the decision was made to approach Paine, Webber in an attempt to obtain financing?

A I guess so.

Q Do you know whose idea it was to approach Paine, Webber?

A I believe it was Mr. Fullana and Mr. Berger.

Q Do you know who first approached Paine, Webber?

A I believe it was Mr. Fullana and Mr. Berger.

Q Had you ever dealt with Paine, Webber before that time?

MR. HOROWITZ: In any capacity, as stockbrokers?

A Not to the best of my recollection.

Q So you believe it was either Mr. Berger or Mr. Fullana who first contacted Paine, Webber?

A I am sure it was.

Q Do you recall about when that was?

A No.

MR. HOROWITZ: Off the record.

(Discussion off the record.)

BY MR. CARR:

Q Mr. Cohen, I hand you a document which has previously been marked as Defendant's Exhibit A for identification.

(Document is handed to the witness.)

Q (Continuing) And ask you whether you have ever seen that document before.

A I don't recall having seen this document.

Q This document refers to financial statements of Basic Equities and Development Corporation and financial statement of Marles, Inc.

A Yes, I see that.

Q It indicates that those statements were

furnished to Paine, Webber.

A They would have been furnished to Fullana through our Puerto Rican office.

Q To your knowledge, had those statements or similar statements been submitted to other potential lenders in the past?

A Possibly. I have no way of knowing that.

Q Do you recall any discussions at about this time with Mr. Fullana or Mr. Berger about Paine, Webber?

A No. Them specifically, no.

Q Do you recall any discussions with anyone about Paine, Webber at this time?

A At this time I don't recall, but probably a little later on, yes, with Mr. Fullana and Mr. Berger.

Q I now will hand you a document which was marked as Defendant's Exhibit B for identification, which is a letter to Mr. Berger from Mr. Wilkes, dated March 13, 1972, and ask you whether you have ever seen that document before.

A Possibly. I am not sure.

MR. HOROWITZ: I take it when you are asking him whether he has seen the document, you include in that any copy.

MR. CARR: Or copies, yes.

MR. HOROWITZ: I imagine the answer is the same. I just want to make it clear.

THE WITNESS: I don't recall.

Q This letter, in the first paragraph, indicates that Mr. Wilkes is enclosing an application for commitment.

A I see that.

Q Do you recall whether Mr. Berger showed you that application for a commitment at about this time?

A I don't recall.

Q Do you recall discussing the application for a commitment with Mr. Berger?

A Possibly, but I don't recall.

Q Do you recall discussing it with Mr. Fullana?

A I don't recall.

Q Do you recall discussing it with anyone?

A No.

Q I now will hand you Defendant's Exhibit E for identification, which appears to be an executed copy of the application for commitment.

(Document is handed.)

A Yes.

Q I will also hand you Defendant's Exhibit C, which is a letter from Mr. Berger to Mr. Wilkes.

(Document is handed.)

MR. HOROWITZ: Let me just note that there are copies of some checks physically attached to the application for commitment as part of Defendant's Exhibit E.

MR. CARR: Fine.

A All right, I see it.

Q Do you recall receiving a copy of Defendant's Exhibit C, the letter dated March 29th from Mr. Berger to Mr. Wilkes?

A Yes.

Q Prior to this letter, do you recall discussing the terms of the application for commitment with Mr. Berger?

A Yes. Just around the time of this application.

Q What was the substance of those discussions?

A I don't recall. I can refresh my memory from looking at it, but I don't recall from memory.

Q Did you talk to Mr. Berger more than once?

A Probably, yes.

Q Did you talk to Mr. Fullana?

A Yes.

Q Would your conversation with Mr. Fullana be in person or by telephone?

A I don't recall.

Q Do you recall going to Puerto Rico about this time?

A Probably. I just don't recall.

Q Directing your attention to the first paragraph of the application for commitment --

MR. HOROWITZ: You mean the paragraph preceding the numbered paragraph 1?

Q Yes. The paragraph beginning, "We hereby appoint you..."

Do you recall discussing that paragraph with anyone?

A Yes.

Q Who did you discuss that with?

A Probably with Berger.

Q Do you recall the substance of those discussions?

A Well, we all supported giving them the exclusive for thirty days.

Q Do you recall discussing the portion of the paragraph in the next to last line beginning, "And such period shall be automatically extended unless terminated in writing"?

A I don't recall discussing that with them at all.

Q Moving down to numbered paragraph 4, do you recall discussing the subject matter of this paragraph with Mr. Berger or Mr. Fullana?

A Yes.

Q What was the substance of those discussions?

MR. HOROWITZ: At any time, sir?

MR. CARR: Prior to the execution, which was on March 27th, I believe.

A I don't recall what the discussions were. I know we probably discussed it. It's two years ago.

Q At this time, prior to the execution of this document, was there anything in the document which was objectionable to you or unacceptable?

MR. HOROWITZ: Why don't you take your time and look it over, if you like.

(Pause in the proceedings.)

A There was nothing that I can recall that I found the substance to be objectionable.

Q Is this document signed by Mr. Fullana; is that Mr. Fullana's signature?

A It sure looks like it.

Q Are you familiar with Mr. Fullana's signature?

A I have seen it before many times.

Q This appears to be Mr. Fullana's signature?

A Yes.

Q Did Mr. Fullana sign this document with your consent?

A Yes.

MR. HOROWITZ: For the record, we have admitted in the answer that it was executed by the defendant. I don't think there is any issue about that.

Q Do you know Mr. Leonard Wilkes?

A Yes.

Q When did you first meet Mr. Wilkes?

A After March 24, 1972, to the best of my knowledge.

Q So, to the best of your recollection, you had not met him at the time this --

A To the best of my recollection. I know it was in early '72 that I met him.

MR. HOROWITZ: Why not state the question again.

Q To the best of your recollection, you had not met Mr. Wilkes prior to the execution of this document?

A I think that is correct.

Q Had you met anyone else employed by Paine,

Webber at that time?

MR. HOROWITZ: You mean prior to that time?

A Related to this?

Q Yes.

A Relative to this?

Q Relative to this.

A Not to the best of my knowledge; no.

Q Had you ever met Mr. de Saint Phalle? When did you meet Mr. de Saint Phalle?

MR. HOROWITZ: It hasn't been established that he ever did.

THE WITNESS: I said "yes".

MR. HOROWITZ: I'm sorry.

A A good deal after I met Mr. Wilkes. A good period of time after I met Mr. Wilkes.

Q Going back for a moment to the application for commitment, would you look at the checks that are attached to that document.

There appear to be three copies of three checks.

MR. HOROWITZ: One copy of each of three checks.

Q The first of which appears to be a copy of

a check for $25,000.

A Yes.

Q Do you know who signed that check?

A Yes, I do.

Q Who signed the check?

MR. HOROWITZ: Do you mean the corporation or the individual?

Q Whose signature appears on the check?

A Jose Alvarez.

Q Who is Mr. Alvarez?

A Mr. Alvarez is an employee.

Q Of Basic Equities?

A Yes.

Q Is he an officer?

A Yes.

Q Do you know why the check is dated March 7, 1972, which appears to be prior to Mr. Wilkes' submission of the application to the defendant?

A No.

Q Going back to the first page of that document and the first full paragraph again before the numbered paragraphs, the language beginning, "We hereby appoint you our sole and exclusive agent," what did that phrase mean to you at that time?

A It meant for a period of thirty days that they would be the sole agent to try to get this mortgage because they represented that they could get it within thirty days, so we gave that to them.

Q Would it be fair to say that that meant that you were not free to employ another broker or contact other lenders during those thirty days?

A Yes.

Q What was to happen at the end of the thirty-day period?

MR. HOROWITZ: You are talking about his understanding?

A I don't know what was going to happen. If they didn't get it, then we forget about it.

Q You would forget about it?

A They would forget about it.

MR. HOROWITZ: Everybody would forget about it?

THE WITNESS: I mean, you could see they were appointed for a period of thirty days. It's not a very long period of time.

Q Was the sole and exclusive agency to end at the end of thirty days?

A Yes.

Q Directing your attention to the next to last line of that paragraph --

A We wouldn't have given this to them -- in other words, they probably represented to us that they had this mortgage placed or we wouldn't have given them $50,000 because we are not in the habit of giving brokers $50,000 just because they are beginning to go out and look for a mortgage for us.

Q Do you recall them representing to you that they had the mortgage placed?

A Yes. That's why we gave them the $50,000.

Q Do you recall who made that representation and to whom it was made?

A Paine, Webber, probably through Mr. Wilkes.

Q Do you recall to whom it was made?

A Mr. Fullana.

Q Mr. Fullana informed you that they had made that representation?

A Informed me and informed my man in Puerto Rico, Mr. Alvarez, that they had the mortgage placed and obviously they thought they did because they only asked for thirty days, and that's why we gave them $50,000.

Q Is the thirty-day period based upon your experience in this area the customary period for an

authorization of this kind?

A There is no such thing.

MR. HOROWITZ: I am just going to note my objection. I don't know that Mr. Cohen is here to testify as an expert witness on the practice in the industry. I will let him answer it to the best of his ability.

A To the best of my ability, the reason that we would only give them thirty days is that we had other people who were looking to get this, we were speaking to other people directly and we didn't want to tie ourselves up with Paine, Webber. And the only reason we gave them the good-faith deposit at the time of this application is they represented to us that they had this thing placed.

Q Who were those other people you were talking to at that time?

A I mentioned them previously.

MR. HOROWITZ: At that time --

THE WITNESS: You mean prior to the thirty days? More than a dozen.

Q You testified, Mr. Cohen, that you had other people who were looking to get this, I believe. Who were those other people?

A That we were contacting other people, which I testified earlier.

Q Were these the same people you listed earlier?

A Those were just a few of them. I don't recall who all of them were. We also spoke to other brokers in Puerto Rico.

Q During the thirty-day period --

A Which is customary down there.

Q -- following the execution of this document, did you have any discussions with any other brokers or any direct discussions with any lenders or did anyone --

A During that thirty-day period?

Q Yes.

A Not to the best of my knowledge.

Q I am using "you" there to mean the defendant, you or Mr. Fullana.

A Not to the best of my knowledge, no. There would be no reason to.

Q It was your understanding that the sole and exclusive agency was to end at the end of thirty days; is that right?

MR. HOROWITZ: That's what he testified to before.

A Right.

Q Now, directing your attention to that same paragraph we have been discussing, the next to last line in which it says, "And such period shall be automatically extended unless terminated in writing," what did that mean to you?

A What it says.

What did it mean to me then?

Q Right.

A It was contemplated that Mr. Fullana would give them a period of thirty days after which, if they were not successful, we would get our money back and the deal -- any brokerage agreement with Paine, Webber would then be terminated. That's what it would mean to me then and that's what it would mean to me now if I looked at it.

Q Was it to terminate automatically or was it to require a writing?

A According to what it says, it would require a writing.

Q To your knowledge, was any --

A I don't recall my reaction to it in 1972, no.

Q To your knowledge, was any such writing terminating the agency ever sent?

A The answer is I don't know.

Q Do you recall ever discussing whether such a writing should be sent?

A No.

Q I don't want to be repetitive here, but is it your testimony that after the thirty-day period ended you were then free to contact other brokers and other potential lenders directly?

MR. HOROWITZ: You mean his understanding?

MR. CARR: Yes.

A I don't recall.

Q Now, you have testified, I believe, that prior to the discussion of this application Paine, Webber had represented that they had the loan placed, I believe.

Did they tell you who the potential lender was to be?

A I don't recall.

Q Do you recall when you first learned who the potential lender was to be?

A I believe it was subsequent to this date. I just can't tell how much time subsequent to this date it was. Probably a month or two later.

MR. CARR: I would like this letter dated May 12th from Mr. Fullana to Mr. Wilkes marked as Plaintiff's Exhibit 2.

(A letter dated May 12, 1972, from Mr. Fullana to Mr. Wilkes, was marked Plaintiff's Exhibit 2 for identification, as of this date.)

MR. CARR: The record should also reflect that attached to this letter and marked as part of the exhibit is another letter dated May 12th to Mr. Fullana from Mr. Wilkes.

Q I hand you these two letters, Mr. Cohen, and ask you whether you have ever seen either of those letters.

(Documents are handed.)

A I don't recall.

Q Turning to the second paragraph on the first page of the first letter which refers to delaying the second week in a row in completing the FMI formal application, are you aware of the reason of that delay?

A No.

MR. HOROWITZ: I am going to object to that. That's Mr. Wilkes referring to a delay. I don't know whether there was a delay. I wasn't

there. And if you want to ask him whether there was a delay, you can ask him whether there was.

THE WITNESS: I have no knowledge of it, anyhow.

Q So you don't know whether there was a delay?

A No.

Q Moving down to the fourth paragraph which reads, "I don't really understand Mr. Cohen's reason for not giving us an answer," do you know what Mr. Wilkes is referring to there?

A No. I don't know what he means.

MR. CARR: I would like this letter dated May 22, 1972, from Mr. Wilkes to Mr. Cohen, marked as Plaintiff's Exhibit 3.

(A letter dated May 22, 1972, from Mr. Wilkes to Mr. Cohen, was marked Plaintiff's Exhibit 3 for identification, as of this date.)

Q Mr. Cohen, have you ever seen this letter which has been marked as Plaintiff's Exhibit 3 before?

(Document is handed.)

A Yes.

Do I recall seeing this?

Q Yes.

A Yes.

Q Does your signature appear on page 2 of that letter?

A Yes, it does.

Q Looking at the first paragraph on the first page of the letter, have you read that paragraph?

A What about it?

Q Does that paragraph refresh your recollection as to what Mr. Wilkes might have been referring to in his May 12th letter to Mr. Fullana?

A It would seem sensible, yes.

MR. HOROWITZ: Explain that.

Q Can you explain that?

A Well, I guess what you are asking me is -- in this letter he says he doesn't understand what the Cohens' reason for not giving us an answer is. That probably referred to a guarantee on the part of Basic Equities.

Q Was there a problem with the guarantee?

A No. We just didn't want to give it.

Q What was the reason you didn't want to give it?

A What was the reason we didn't want to give it?

As I recall, I don't think that we legally -- were in a legal position to give it because of a loan

indenture with State -- not a loan indenture but both a loan indenture and -- they were a stockholder of Basic Equities, State Mutual of America of Worcester, Massachusetts, and they would probably, to the best of my recollection, not permit this type of guarantee.

Q You say they were a stockholder of Basic Equities?

A Yes.

Q Do you recall what percentage of the stock they owned?

A Five.

Q I take it they were also a creditor of Basic Equities; is that right?

A Correct.

Q Now, the original application which was executed by Mr. Fullana on, I believe, March 27th, provided that the loan would be guaranteed by Basic Equities; is that correct?

MR. HOROWITZ: I will stipulate that's what it says in that paragraph, that it would be guaranteed by Jose Melia, Sr., Pedro Fullana and Basic Equities.

Q So at some time after March 27th, and before May 22nd, you decided and informed Paine, Webber that

Basic Equities couldn't guarantee the loan; is that correct?

A No, it's not correct.

Q Was any such decision ever reached?

A It was always reached. It was always never different.

Q At the time the application was executed on March 24th, was it contemplated by you that Basic Equities would guarantee the loan?

A Was it contemplated by me? I don't recall.

Q I believe you have testified that nothing in this document was objectionable to you at that time; is that correct?

A What probably happened was that we were not aware of the fact that Basic Equities could not guarantee because of State Mutual.

Q You became aware of that fact some time between March 27th and May 22nd?

A Probably.

MR. HOROWITZ: In fact, for the record, Plaintiff's Exhibit 3, subparagraph F on the second page states that Basic Equities and Marles Equities will be released from any such guarantee.

Q Was there ever any discussion that Marles

Equities would guarantee the loan?

A I don't recall.

Q Were the terms which are set forth in sub-paragraphs A through F on Plaintiff's Exhibit 3 acceptable to you at that time?

MR. HOROWITZ: To him personally?

MR. CARR: Yes.

A Yes.

Q Do you recall whether you discussed these terms with Mr. Fullana or with anyone from the Melia organization?

A I believe I would have discussed it with Mr. Fullana and Mr. Berger.

Q Do you recall the substance of those discussions?

A What's that?

Q Do you recall the substance of those discussions?

A Well, I probably discussed all the major points, the amount of the loan, interest rate, term.

Q You recall no specific discussions, though?

A No.

Q Mr. Cohen, I hand you a document which has been marked as Defendant's Exhibit E; it's a memorandum

from Mr. Wilkes to Mr. de Saint Phalle, and I ask you whether you recall the meeting that that document refers to.

MR. HOROWITZ: Take your time and review it.

Q Yes, please read the entire document.

A What is your question?

Q Do you recall that meeting?

A Yes.

Q Does this document accurately summarize the discussions that occurred at that meeting?

A I think --

MR. HOROWITZ: Hold on a second. The "P.S." talks about a sequel.

MR. CARR: Leaving aside the later meeting referred to in the P.S.

A The letter refers to a meeting and some other things. My recollection as to the meeting appears that it's basically what was discussed at the meeting in Coral Gables.

Q Referring to the first paragraph, the reference in that paragraph to the tendering of the $50,000 good-faith deposit to FMI --

MR. HOROWITZ: Well, to the transfer

of it from the Paine, Webber account.

THE WITNESS: Right. I don't recall that, but I guess that's what took place.

Q Do you recall the circumstances surrounding that transfer?

A I don't.

Q Do you recall whether at that time Paine, Webber returned its good-faith deposit to the defendant to be used as a good-faith deposit, to be forwarded to FMI?

A I don't recall. That's what the letter says, but I don't recall.

MR. CARR: I would like this document, which is a letter dated June 7, 1972, from Paine, Webber to Inmobiliaria with three checks attached, marked as Plaintiff's Exhibit 4 for identification.

(A letter, dated June 7, 1972, from Paine, Webber to Inmobiliaria with three checks attached, was marked Plaintiff's Exhibit 4 for identification, as of this date.)

MR. CARR: I would also like a letter dated June 7, 1972, from Mr. Berger to Mr. Wilkes, marked as Plaintiff's Exhibit 5 for identification.

(A letter dated June 7, 1972,

from Mr. Berger to Mr. Wilkes, was marked Plaintiff's Exhibit 5 for identification, as of this date.)

MR. CARR: And another letter dated June 7, 1972, from Mr. Wilkes to Mr. Berger.

(A letter, dated June 7, 1972, from Mr. Wilkes to Mr. Berger, was marked Plaintiff's Exhibit 6 for identification, as of this date.)

Q Mr. Cohen, have you examined Plaintiff's Exhibits 4, 5 and 6?

A Yes.

Q Do those three documents refresh your recollection as to the circumstances surrounding the FMI deposit?

A Yes.

Q Do you recall why it was that the defendant apparently was unwilling to forward a deposit to FMI without first receiving the deposit back from Paine, Webber?

A Do I recall why?

Q Yes.

A Well, it's highly irregular in our method of doing business to ever give a good-faith deposit to a broker.

I guess we had assumed or Fullana had assumed when he gave the original good-faith deposit that that was going to go to a lender, not to the broker. So we didn't want to give two good-faith deposits.

Q Do you have an independent recollection that that was the case or are you guessing?

MR. HOROWITZ: That what was the case, that it's irregular?

A I seem to recall -- that we objected to giving two good-faith deposits?

Q Yes.

A Yes, I recollect that we objected to giving two good-faith deposits.

Q Is it your recollection that $50,000 Paine, Webber deposit was returned to defendant?

A Yes. After looking at these papers, yes.

Q And that deposit was then forwarded to either FMI or Berens, which was FMI's agent?

A Yes.

MR. CARR: That's Berens Mortgage Bankers.

Q I will now hand you a document which has been marked as Defendant's Exhibit J, the first page of which appears to be a handwritten note from Mr. Wilkes

to you.

A Yes, I have examined it.

Q I ask you whether you recall receiving that handwritten note.

A Possibly.

Q Do you recall receiving the letter attached to that note dated June 26, 1972?

A Yes.

Q The first page of that letter, I believe, has a stamp in the lower left-hand corner that says, "Received June 28, 1972, 9:10 a.m.". Do you know who affixed that stamp?

A No.

Q Would it have been someone in your office?

A In my office?

Q Or in Inmobiliaria's office?

A I cannot say. I don't know.

MR. HOROWITZ: It's addressed to Puerto Rico.

MR. CARR: I would like a letter dated June 26, 1972, from Mr. Wilkes to Inmobiliaria, marked as Plaintiff's Exhibit 7.

MR. HOROWITZ: I have no objection to it being marked, but I think a copy of it is

annexed as Exhibit C to the complaint; a copy of it is part of Defendant's Exhibit J, and we are not contesting that it was signed by Mr. Cohen. If you want to mark it, go ahead.

MR. CARR: This is the signed copy and I would like to mark it and identify it.

(A signed copy of a letter dated June 26, 1972, from Mr. Wilkes to Inmobiliaria, was marked Plaintiff's Exhibit 7 for identification, as of this date.)

Q I ask you, Mr. Cohen, whether that is your signature that appears on page 2 of that document.

A Yes.

Q Do you recall how you happened to sign that document when it was addressed to Puerto Rico?

A Do I recall how I happened to sign it when it was addressed to Puerto Rico?

MR. HOROWITZ: How did you get it, I suppose is the best question. If you know.

THE WITNESS: I don't recall how I got it. It was either mailed or delivered in person by Mr. Wilkes. Probably delivered in person.

I don't know. This is dated June 26th and signed July 5th.

MR. HOROWITZ: It's dated June 26th. It says it's signed July 5th.

THE WITNESS: That's my writing. Maybe he didn't get any answer from Puerto Rico, so he asked me to sign it. I don't know.

Q So you don't recall?

A That's probably what happened, because there is a difference of ten days here.

Q Were the terms reflected in that document acceptable at the time you signed it?

A Yes.

MR. CARR: I would like marked as Plaintiff's Exhibit 8 for identification a three-page document consisting of a letter dated July 5, 1972 from Mr. Cohen to Mr. Frame; page 2 appears to be an executed application for commitment; page 3 appears to consists of xerox copies of three checks.

MR. HOROWITZ: Are the first two pages the same as what was previously marked Defendant's Exhibit K? Just so I don't get confused here.

MR. CARR: They are the same letter, except that Defendant's K has some notations that don't appear on Plaintiff's 8.

MR. HOROWITZ: I see. All right.

(A three-page document consisting of a letter dated July 5, 1972 from Mr. Cohen to Mr. Frame; an executed application for commitment; and xerox copies of three checks were marked Plaintiff's Exhibit 8 for identification, as of this date.)

MR. HOROWITZ: Off the record.

(Discussion off the record.)

BY MR. CARR:

Q Mr. Cohen, I will hand you Plaintiff's Exhibit 8 for identification and Defendant's Exhibit K.

(Documents were handed.)

Q (Continuing) Turning first to Defendant's Exhibit K, I ask you whether you recognize the handwritten markings at the bottom of that first page.

A The handwritten markings --

Q Which I believe says "CC".

A No.

Q You don't know whose handwriting that is?

A No. It's not mine. I don't know whose it would be.

MR. HOROWITZ: It's printed, which I think makes it that much more difficult to

ascertain the identity of the writer.

Q Do you have any idea who affixed the "received" stamp at the bottom?

A No.

Q Page 2 of Exhibit K also has a handwritten notation indicating "CC Martin Cohen File, Francisco Melia". You don't recognize that printing?

A No.

Q Plaintiff's Exhibit 8, do you recall ever having seen the first page of that document before?

MR. HOROWITZ: It's the same as K.

MR. CARR: I haven't identified K or haven't established that he's ever seen K before.

MR. HOROWITZ: The one I just showed you is the same letter as this. Did you see either one of them or both of them?

A Yes.

Q Is that your signature at the bottom?

A Yes, it is.

Q Is that your signature at the bottom of the second page, the application?

A Yes, it is.

Q The application doesn't appear to be dated. Do you have any idea when you signed that application?

A Do I have any idea? No. How would I know?

Q All of the terms in that application, were they acceptable to you at that time?

A I believe so.

Q Three checks, I believe, are attached to the application.

A Yes.

Q Do you recognize the signature on the first check, the $25,000?

A Yes; it's mine.

Q The other two checks were signed by Mr. Berger and Mr. Fullana; is that correct?

A Yes. It looks like it.

Q The letter which is the first page of Plaintiff's Exhibit 8 is dated July 5, I believe.

MR. HOROWITZ: That is correct.

Q Which is more than three months after the agreement between the defendant and Paine, Webber was executed.

MR. HOROWITZ: Hold on a second.

Yes. Well, it was executed by Mr. Wilkes on April 3rd, the agreement, and this is July 5th. So it's a little more than three months.

Q What was responsible for that three-month

delay?

MR. HOROWITZ: Three-month delay in what?

A Between the time they were authorized for thirty days as a broker and this?

Q Was it your testimony earlier that at the time you executed the Paine, Webber agreement, or at the time the Paine, Webber agreement was executed, Paine, Webber had a commitment at that point? I am interested in finding out why there is a three-month gap here, if you know.

MR. HOROWITZ: You mean, why the loan hadn't been closed yet?

A Because they are lousy brokers.

Q Why the application to FMI hadn't been executed.

A Because they are lousy brokers, period.

Q What's the reason for making that statement?

A Because it shouldn't have taken them so much time. It should have been closed in thirty days as originally contemplated.

Q Are you saying this delay was brought about by Paine, Webber?

A Yes.

Q Can you be more specific?

A I can't say it's their own fault. Maybe they just misjudged their lender, which I think they did.

Q Are you saying the delay was caused by FMI?

A No. I am saying that as far as I am concerned, I was dealing with Paine, Webber and they misrepresented to us about this loan and that's the reason they requested thirty days. They thought they could close it in thirty days and they weren't able to do it and they kept asking us, as you can see by these other letters here, to sign new documents and new documents. That's what happened. It was their fault. We wanted to close in thirty days. That's why it happened.

Q Is it your testimony that your inability to provide a guarantee from Basic Equities was in no way responsible for the delay?

A To the best of my recollection, it was in no way responsible for any delay.

Q Is it your testimony that your refusal to provide a second deposit to FMI was in no way responsible for any delay?

A I have no way of knowing conversations between the broker and the lender. I was not party to those conversations, so I can't answer that.

Q Can you describe any --

A I would like to make a comment for the record, if I may.

Q Go ahead.

A Very often a broker will indicate and lead a client to believe that he has a deal so that he can get an exclusive and in fact he doesn't have a deal. He then goes out and shops the deal. I think that's what happened here.

Q You think that's what happened here?

A Yes.

Q Do you have any knowledge that that's what happened?

A No. I said I think that's what happened here because they only asked for thirty days originally.

Q You say this happens very often. Can you describe any specific instances in which that has happened in any transactions in which you have been involved?

A No, I can't. I don't care to.

That I have been involved?

Q Are you refusing to answer the question or you don't know of any?

A No, I don't know of any specifics.

Q So this is a general statement that this often happens?

A Yes.

Q Is that based on your experience in the real estate business?

A Yes.

Q Did anyone ever tell you that that's what happened here?

A No.

Q It's just your impression, you assume that's what happened here?

A Yes.

Q So it's your testimony that the reason that the FMI application wasn't executed by you until July 5th was because Paine, Webber did not in fact have a commitment from FMI?

MR. HOROWITZ: That's not what he said. He said they were lousy brokers.

A I said they didn't have a commitment on April 5th.

Q Well, then is it your testimony that the reason that your application wasn't executed until July 5th was because Paine, Webber did not have a commitment on April 5th?

A That's my opinion, which should answer your question.

I also would like to state that Mr. Wilkes, to my recollection, was a newly employed member of the firm of Paine, Webber. He was the officer or representative of Paine, Webber that we dealt with. I am not trying to cast any aspersions on Mr. Wilkes, but I think he was an eager-beaver and tried probably to convince all parties that he had a deal, including Paine, Webber. So I make no representations as to how good or bad Paine, Webber is, but our experience with them has been lousy.

Q Have you had any other business dealings with Paine, Webber?

A Not to the best of my recollection.

MR. HOROWITZ: That's the second time you have said that.

Q So your statement that your experience with them has been lousy is based solely on this transaction?

A Yes, sir, and they caused us considerable damage besides because of their inability in this transaction.

Q What is the nature of that damage?

A They delayed us for several months when we could have gotten this mortgage elsewhere.

MR. HOROWITZ: For the record, it may as well come out now that we will be moving as

soon as possible for permission to amend the answer to allege a counterclaim with respect to the damage that Mr. Cohen has just alluded to.

Q After the discussion of the FMI application on July 5th, what happened next?

A We waited.

Q Do you recall anything specifically?

A We waited for the money.

Q Did there come a time when FMI requested a sales and marketing report on the proposed apartotel?

A I seem to recall that.

Q Do you recall about when that was?

A I seem to recall they asked it if we were told that they already agreed to give the loan. After we were told by Paine, Webber that they had agreed to give the loan.

Q Do you recall when it was that Paine, Webber had told you that they agreed to give the loan?

MR. HOROWITZ: You mean they mentioning the name specifically or mentioning that some lender had agreed to give the loan without mentioning the name?

MR. CARR: Off the record.

(Discussion off the record.)

THE WITNESS: What is your question

again?

MR. CARR: Could we hear the question.

(The record was read.)

Q I mean that FMI had agreed to give the loan.

A Do you mean when they identified the lender?

Q Yes, when it is that Paine, Webber told you that FMI had agreed to give the loan.

A Either in April or May; to the best of my recollection.

Q Did Paine, Webber tell you that FMI's trustees had agreed to give you the loan or was it to be subject to trustee approval?

A I don't recall that.

MR. HOROWITZ: You don't recall one way or the other?

THE WITNESS: I don't recall if they told me that they had agreed but that it was subject to trustee approval. I don't recall from two years ago that he told me that.

Also, I don't know about his conversations with others in our company, like Berger. I can't testify to that. He may have identified FMI to him earlier than that.

Q In any event, it is your testimony that in

April or May Mr. Wilkes told you that FMI had agreed to make the loan?

A Yes. That's to the best of my recollection.

MR. CARR: Off the record.

(Discussion off the record.)

BY MR. CARR:

Q Looking at Plaintiff's Exhibit 8, the second page, and directing your attention to what appears to be the second paragraph 13 of that document, which is entitled "Loan Application Deposit", will you read that paragraph?

A "Cash deposit -- "

Q Just read it to yourself.

(Pause in the proceedings.)

THE WITNESS: Yes.

Q Now, I ask you whether that paragraph refreshes your recollection as to whether Mr. Wilkes told you in April or May that FMI had agreed at that time to make the loan.

MR. HOROWITZ: I object to the form of the question.

A No, it doesn't.

MR. HOROWITZ: Wait a minute.

There is no showing that there is

anything wrong with his recollection. If you want to ask him whether it causes him to change his testimony, I would have no objection to that.

MR. CARR: All right.

A Also, I don't know the date of this.

MR. HOROWITZ: Does it cause you to change your testimony about what Wilkes told you in April or May?

THE WITNESS: No, it doesn't cause me to change my testimony.

Q Is it fair to say that this paragraph appears to contemplate a later acceptance of this application by FMI?

MR. HOROWITZ: I am going to object to that and direct the witness not to answer. I think the document speaks for itself. The document has been marked and whatever it means, it means.

Q Reading the second sentence in that:

"Should this loan application be accepted by FMI and FMI issues a commitment substantially in accordance with the terms and conditions contained in the borrower's loan application and the borrower does not accept the commitment...", and so forth, was it your

understanding that at the time you executed this document that some further approval was required on FMI's part before a commitment would be issued?

A Not really. Because of my past experience, normally when a lender -- in our past experience with lenders, lenders as good as their size, an insurance company lender or a mortgage trust normally doesn't request a good-faith deposit unless they are pretty sure they are going to give you the loan. The purpose of a good-faith deposit is to show good faith on the part of the applicant so that if they do approve the loan, which is usually a foregone conclusion, that the applicant doesn't back out, not that the lender backs out. That's why I think that Paine, Webber is not a good broker in this case, because we should not have given the good-faith deposit unless the lender was ready to give you the loan.

Q You say usually it's a foregone conclusion that the commitment --

A In my experience. In my experience we have not given good-faith deposits without getting the loan. Usually the lender doesn't ask for it unless they are ready to give the loan, disburse the loan.

Q Have you ever executed an application for a

commitment which was turned down?

A Yes.

Q On how many occasions would you say that that has occurred?

A Where I have applied for a loan that was turned down?

Q Yes.

A Numerous occasions.

Q In which you have executed a formal application for a commitment?

A Several. But to my recollection, never have I given a good-faith deposit to an accredited lender and then after we have given the good-faith deposit the loan has not gone through.

Q Was it your understanding at the time you executed this document that FMI was free to not issue the commitment if they chose not to?

A I was of the opinion that they would issue.

MR. HOROWITZ: Wait a minute.

THE WITNESS: Were they free to according to the fine print?

MR. CARR: Yes.

MR. HOROWITZ: Free in what sense, a legal sense?

MR. CARR: In a legal sense, if you can answer.

THE WITNESS: I am not a lawyer, but, according to my reading it now, and reading the fine print, it now appears that they had an out. But let's just say it's usually a gentlemen's understanding that when you give a good-faith deposit you get the loan. They don't need our $50,000 deposit.

Q Did you read this fine print before you signed this document?

A I can't recall.

Q You don't recall what your understanding was at that time about whether they had an out, as you say?

MR. HOROWITZ: Or whether he had one?

A My understanding from Wilkes was that we had a deal and that's why we gave a good-faith deposit.

Q Despite the language of this document which you now admit appears to give them an out?

A Yes.

Q I believe you testified you don't recall the specific conversations in which Mr. Wilkes told you that you had a deal; is that correct?

A The dates of them or what the language was?

Q Even if you don't know the dates, do you recall.

A We were told on several occasions -- I was told on several occasions -- I don't know what he told Berger -- that the deal with FMI was definite and there is correspondence to that fact or to that allegation. And that's when we gave the good-faith deposit.

Q You say there is correspondence to that effect. Can you identify that correspondence?

MR. CARR: I would like the record to show that the witness is conferring with his counsel and counsel has handed him a document.

MR. HOROWITZ: That is correct. I am endeavoring to expedite things, showing him the documents that I have in front of me.

THE WITNESS: I have a lot of documents in front of me, too.

June 26th, both handwritten and typed.

MR. HOROWITZ: Referring to Defendant's Exhibit J.

THE WITNESS: April 28, '72.

MR. HOROWITZ: Referring to Defendant's Exhibit F.

Q Are those the only two?

MR. HOROWITZ: We are looking.

MR. CARR: I would like the record again to show that the witness has discussed Exhibit F with his counsel.

MR. HOROWITZ: That's not true. I discussed a different exhibit than that.

Q Which exhibit were you discussing with your counsel, Mr. Cohen?

MR. HOROWITZ: Wait a minute.

That's a privileged communication.

MR. CARR: Are you instructing the witness not to answer?

MR. HOROWITZ: Yes, sir.

I will concede that I have conferred with the witness on various occasions and what we have conferred about is between the witness and me. I am doing so in an effort to expedite things because I have the documents here in front of me.

THE WITNESS: I would like to further add that in addition to written communications, Mr. Wilkes told me on several occasions that the deal with FMI was a definite deal and that when the deal didn't go through with FMI, I was incredulous and didn't believe that after they

accepted a good-faith deposit they didn't go forward with the deal.

Q You have testified that Exhibits J and F indicate that the FMI deal was a definite deal. Can you refer specifically to statements in those exhibits?

MR. HOROWITZ: Do F first?

MR. CARR: Right.

THE WITNESS: I would like to know what the question is.

MR. HOROWITZ: He was asking for correspondence that indicated to you that Paine, Webber had told you that they had a definite deal with FMI.

He wants to know specifically what language.

THE WITNESS: On April 28th we were led to believe that we have a deal with FMI. Probably prior to that as well, verbally.

Q Looking at paragraph 2 of the letter of April 28th, reading from that paragraph, the letter says, "As you know, I initially requested a 40- to 60-day authorization and agreed to reducing it to 30 days with the understanding that if I did have definite preliminaryinstitutional interest in a loan package,

that the authorization would officially be extended through the time required for a committee or trustee approval and delivery of the firm commitments."

Now, is it your testimony that despite that paragraph, that this letter indicates that there is a definite commitment at this time from FMI to make the loan?

A Yes.

Q I will ask the same question for Exhibit J. I will ask what it is in Exhibit J that you considered to be an indication that there --

A Their request that we give a good-faith deposit of $50,000 to FMI, or to Berens.

Q You take that as an indication that FMI had agreed to make the loan?

A Yes, and so did Mr. Wilkes. Or at least that's what he told me. $50,000 is a meaningful sum of money. It's not too convenient for us to come up with $50,000, unless we know that the party we're doing business with means business. You don't just give $50,000 good-faith deposits every day.

Q So you thought at that time the party that you were doing business with meant business?

A It meant that we were getting the loan because they

were represented to us as one of the largest -- as a matter of fact, if my recollection serves me, they were recommended as the largest mortgage trust or the first and largest mortgage trust in the United States and that this loan to them was not -- was something that was in their league. It wasn't such an unusually big loan and that they have handled loans of this size before and that they were going to give us the loan.

Q Going back for a moment, I asked you earlier whether you recalled a request from FMI that they be furnished with a sales and marketing report of some sort, and I believe you said that you did recall that.

A Yes, I do.

Q I will hand you Defendant's Exhibit P for identification which consists of several letters. The third item in Defendant's Exhibit P appears to be a letter dated August 22, 1972, to Mr. Melia from Mr. Wilkes, with copies to Mr. Berger and Mr. Fullana and to you, and ask you whether you recall ever having seen that letter.

MR. HOROWITZ: The letter of August 22nd?

MR. CARR: Right.

A I personally don't recall receiving this letter, but I remember that my partners were very angered by this

letter and they communicated to me by telephone and they could not understand why at that late stage, all of a sudden three months later or four months later FMI was interested in doing a marketing study of Melia's capability of marketing. As a matter of fact, I think this letter was just an excuse for them to save face to back out of the loan.

Q For FMI to back out of the loan?

A Yes, which I think much to the consternation of Mr. Wilkes at that time.

Q You do recall discussing this letter with your partners?

A Yes. I don't remember receiving a copy of it.

Q After this letter was received --

A I do remember that Wilkes was very disappointed that they should ask -- and expressed it to me -- that at that stage, after we expected the loans to close months later, they should now start looking for an excuse in the language that this letter says to back out of the loan.

Q Do you recall when that discussion with Mr. Wilkes took place?

A A couple of months after we were supposed to have the loan. This probably is the correct date, August 22nd.

Q Do you recall anything further about that conversation with Mr. Wilkes? Do you recall where that conversation took place; was it by phone?

A Either by phone or in my office.

Q After the date of this letter, do you know whether any effort was made to prepare the sales and marketing information as requested by the letter?

A Presumably, yes. I don't know because it wasn't request of me. The Melia organization is pretty competent and if they are asked to do something, they usually do it.

Q Looking at the next letter in Exhibit P, which is a letter dated September 22nd, from Mr. Callantine at FMI to Mr. Wilkes, I ask you whether that letter refreshes your recollection.

A I never got this letter.

Q I wasn't asking you whether you ever got the letter; I asked you whether it refreshed your recollection.

A No.

MR. HOROWITZ: As to what does it refresh his recollection?

MR. CARR: As to the preparation of the marketing information that was requested.

THE WITNESS: It refreshes my

recollection that everybody was upset, including Mr. Wilkes, my partners and myself. That five months later when we were supposed to have the loan they start asking us all sorts of questions which should have been done in April.

Q This letter indicates, does it not, that a month after the August 22nd letter the marketing information still had not been received from Melia?

A This letter does indicate that.

Q Do you have any recollection as to why it took a month to prepare that information?

A I don't have any recollection that it did, nor do I know that to be a fact.

Q Do you recall discussing preparation of that information during the period after the August 22nd letter with anyone?

A No.

Q I show you Defendant's Exhibit Q, which is a copy of a letter dated December 26, 1972 from Mr. Wilkes to Mr. Callantine advising him that the marketing survey had been received from Madrid?

MR. HOROWITZ: Attached to which is a business card with handwriting on it; right?

MR. CARR: Exactly.

Q I ask you to examine the business card and identify the handwriting on it, if you can.

A It appears to be Berger's handwriting.

Q Are you familiar with Mr. Berger's handwriting?

Have you seen his handwriting?

A Yes, I have.

Q Do you recall whether Mr. Berger informed you at about this time that he had received the marketing report?

A Could you ask that again.

Q Do you recall whether Mr. Berger informed you at about this time that he had received the marketing report?

A No, I don't recall.

Q Do you recall whether Mr. Berger proposed a meeting between anyone representing the defendant and representatives of Paine, Webber or FMI?

A I don't recall.

Q Do you recall Mr. Berger suggesting that someone go to Coral Gables at around that time?

A Possibly.

Q You possibly recall?

A I recall that he possibly -- I am not sure, but it

sounds reasonable.

Q Do you recall whether anyone, in fact, went to Coral Gables?

A In September?

Q September.

A Probably. I don't recall the dates. It was two years ago.

Q Leaving aside whether you can recall the dates, do you recall that anyone went to Coral Gables at about that time?

A I know I went to Coral Gables with Mr. Fullana, and I don't remember the date that I went there.

Q Was that about this time?

A I don't recall.

Q Could that have been a meeting in June at which you were discussing the guarantees and deposit problem?

A Yes. It could have been the meeting in June. I don't recall the meeting in September. As far as I was concerned, in September I had lost confidence in Paine, Webber and FMI. So the meetings that they had after that were of very little consequence to me because it appeared to me as if they were just backing out of the loan.

Q To your recollection, did you only go to --

A Which, in fact, they did.

Q Did you only go to Coral Gables once for a meeting?

A That is correct, sir.

Q Did you have any other meetings with any representatives of FMI at any time?

A Of FMI?

Q Except for Paine, Webber and Berens personnel.

A Not to the best of my recollection.

Q Did you ever meet with anyone from Berens?

A I personally, yes; at the meeting in Coral Gables there was a representative of Berens. I think two of them.

Q To the best of your recollection, is that the only occasion in which you met with a representative from Berens?

A That I personally met with them?

Q Yes.

A I seem to have met the people from Berens in the past prior to that. I seem to recall that. In Puerto Rico, and I know my man, Mr. Alvarez, has had meetings with people from Berens in the past.

Q In connection with this transaction or other

transactions?

A They are known brokers in Puerto Rico.

Q Had you met them in connection with this transaction?

A Had I met them?

Q Yes, except for the Coral Gables meeting?

A No. But maybe Berger did. Maybe Alvarez did. I don't know.

MR. HOROWITZ: He is only asking about you.

THE WITNESS: No. The answer is "no".

Q Did you ever correspond with FMI directly?

A No.

Q You say that at this time you had lost confidence in Paine, Webber and FMI.

A Yes.

Q When was it that you lost confidence in Paine, Webber?

A When was it? It was at three o'clock in the afternoon -- I can't tell you the date of that.

Q This was a gradual thing, I take it?

A Yes, because the thing was taking so terribly long.

Q When did this begin?

A Well, I had a feeling that when you sign something

in March, that by April or May it would be consummated, especially when they request a $50,000 deposit. So let's say that by June, when it didn't happen by June I was losing confidence in the fact that there was a deal; that Mr. Wilkes had assured me that it was a deal. So certainly by September I wasn't too thrilled.

Q Now, in June --

A Because the project was terribly delayed. The construction costs were skyrocketing. We were very, very displeased at that time that we lost six months with Paine, Webber.

Q Did there come a time in which you decided to attempt to find financing elsewhere?

A There was always a time that we attempted -- prior to the deal with Paine, Webber? You mean prior or after? I don't know what you mean.

Q After the execution of the agreement with Paine, Webber.

MR. HOROWITZ: At any time subsequent to that.

A Yes.

Q When was that?

A With the exception of the thirty-day period, probably the whole time.

I can't say specifically. I don't know specifically.

Q So after May 5th, which is thirty days after Mr. Wilkes executed --

A I wouldn't say that. I wouldn't say that's accurate. I don't know exactly when.

Q Could it have been in June?

A Could it have been in June? Possibly.

Q Would your answer be the same for July and August, September?

A Possibly, yes.

Q Who was it who primarily undertook to pursue other potential sources of financing during this period?

A Fullana, Mr. Alvarez for the most part.

Did you yourself make any efforts in that direction?

A When? When are you referring to?

Q The period beginning June of 1972 -- beginning May of 1972.

A Did I institute --

Q Did you have any discussions?

A I had discussions, but I didn't institute any new negotiations with new lenders, that I didn't initiate

any of them.

Q Who did you have discussions with?

A I don't recall.

Q Were these discussions with potential lenders?

A Oh, yes.

Q Was First National City Bank one of them?

A Yes.

Q Banco Popular?

A I don't recall the dates that we approached those people, so I can't tell you. They could have been before this, they could have been followed up after this when we saw that -- we were lulled into believing that we had a deal with FMI, and whether we went back to those lenders again, probably we did.

Q You can't pinpoint the date?

A No, I can't.

Q I take it you have no correspondence unless some arrives this afternoon?

A I don't think there will be any correspondence. I don't know.

Q Were these discussions in person --

A Yes.

Q -- or by telephone or both?

A That I had?

Q Yes.

A Yes.

MR. HOROWITZ: Both?

THE WITNESS: Both.

Q Did you keep a diary?

A No.

Q Or an appointment book, a desk calendar, telephone register?

A A telephone register, no; a diary, no; an appointment book, yes. Not me, but my secretary normally would keep an appointment book for me.

Q That appointment book would reflect meetings that you had?

A No.

Q What is the purpose of the appointment book?

A To remind me that I shouldn't miss a meeting. But it wouldn't be kept like two years.

Q Do you still have those appointment books for the years 1971, 1972 and '73?

A I would doubt it very much.

Q Could you examine your files and see whether you have those?

A I could.

MR. HOROWITZ: For what years?

THE WITNESS: '71, '72 and '73?

MR. CARR: '71 and '72.

MR. HOROWITZ: What is the significance of '71, to see who else he talked to before he went to Paine, Webber; is that the point?

MR. CARR: Exactly.

MR. HOROWITZ: All right.

THE WITNESS: You see, the people we went to were all in Puerto Rico for the most part. So it wouldn't be in my diary. My diary would say I went to Puerto Rico. Not my diary. My appointment book. I didn't have any diary.

Q Do you keep expense records for tax purposes or any other purposes which would indicate when you might have gone to Puerto Rico?

A Well, not expense records. But I could dig up airline records to show when I went to Puerto Rico.

Q Do you have airline records?

A I believe we can find those, yes.

MR. CARR: I would also like to ask those be produced.

MR. HOROWITZ: You mean --

THE WITNESS: Every time I went to Puerto Rico you want a record of during '71 and '72?

MR. HOROWITZ: Do you want the records or do you want him to try to reconstruct every time he went to Puerto Rico from the records?

THE WITNESS: The records would disclose when I went to Puerto Rico.

MR. CARR: I think we would like to have the records.

MR. HOROWITZ: Airline records of all trips to Puerto Rico when?

MR. CARR: During '71 and '72.

MR. HOROWITZ: I will take that under advisement. I think that I will have to consult with Mr. Cohen as to how onerous a task that is.

THE WITNESS: I wouldn't know.

MR. CARR: I understand that, and if it turns out to be incredibly burdensome, perhaps there is some way we can limit it.

MR. HOROWITZ: I will advise you on the dimensions of the task after I find them out.

BY MR. CARR:

Q Do you keep telephone records of any kind which would indicate long-distance telephone calls?

A We don't keep them. But I guess our phone bill would show it.

Q Do you keep copies of the phone bills?

A I don't keep copies of anything. My office would have it.

Q This is your office at International Stretch Products?

A Yes.

MR. CARR: We also would like --

Off the record.

(Discussion off the record.)

MR. HOROWITZ: At counsel's request for phone bills for '71 and '72, I will endeavor to locate them, see how burdensome it would be to locate them. After I get a handle on it, I will discuss it with Mr. Carr further and we will take it under advisement. Mr. Cohen is right, that I suppose that counsel's request would also include calls from the office in Puerto Rico because it may have been charged to that number rather than Mr. Cohen's corporate number at International Stretch.

THE WITNESS: The call may have originated there.

MR. HOROWITZ: That's what I am saying. It could have been either way.

All right, I understand.

MR. CARR: Off the record.

(Discussion off the record.)

BY MR. CARR:

Q I believe you testified, Mr. Cohen, that during the period beginning May of '72 it is likely that you had discussions with potential lenders.

MR. HOROWITZ: I don't think that was the testimony. He said it may have been May, it may have been June. He doesn't really recall. But the record will speak for itself.

Q And that Mr. Fullana may also have had discussions during that period?

A It would have started at the time that we came to the conclusion that this mortgage was not going to happen. But what date that was, I can't pin down.

Q Do you recall who made the first contact with HIC, the circumstances surrounding that contact?

MR. HOROWITZ: There was a contact to which he testified prior to January of '72. Do you mean a contact in '72?

MR. CARR: I mean a contact after March 27th of '72.

MR. HOROWITZ: All right. Do you recall

who made that contact?

A First of all, the contact was made well prior to that; not after that.

MR. HOROWITZ: He is talking about the follow-up.

THE WITNESS: The follow-up, I can't tell you the exact date or who.

Q Do you recall meeting --

A We know the people very well from HIC.

Q Who do you know at HIC? Can you give me the names of the people?

A That I know at HIC?

Q Yes.

A Mr. Yates, president; Mr. Wall, who I think is now the president. Roger Wall, Jack Yates and some of his other people that we know.

Q How long have you been acquainted with these people, you personally?

A I would have to say about three years.

Q How did you become acquainted with the HIC people?

A They are very well known people in Puerto Rico; also the fact that we own the building that they occupy.

Q Basic Equities owns the building or a Basic

Equities subsidiary?

A Right.

Q Do you know the name of that subsidiary?

A San Jorge Development, I think it is, Development Corporation.

My associates in Puerto Rico know him even much longer, know HIC even longer.

Q That would include Mr. Alvarez?

A Mr. Alvarez and Mr. Fullana.

Q Do you recall having any discussions with any of the people at HIC during the summer of '72 or any correspondence, any telephone communications?

A In September?

Q In the summer, beginning of June.

A I don't recall.

Q When was the first indication that you had, that HIC might be interested in financing?

A I have to look at my papers.

An indication that I had?

Q Right.

A I would say it was probably in the latter part of September or the early part of October.

I would say in September.

Q '72?

A Yes, which was around the time we realized we had no deal with Paine, Webber.

Q You recall no specifics about that communication in which you learned that HIC might be interested in financing the project?

A I had a meeting with them.

Q Where was that meeting held?

A In New York. Mr. Berger was present, too.

Q Who else was present at the meeting?

A That's all; Berger, Cohen and Yates.

Q What was the substance of the discussion at that meeting?

A We asked for a mortgage because we felt that we had no deal with FMI, and Mr. Yates said he was familiar with the Melia organization, he had been to Spain earlier, maybe a year prior to that, very familiar with the Melia organization and his feeling was that they would grant us a loan immediately.

Q Did Mr. Yates inform you at that time that he had been approached by Paine, Webber?

A Positively not.

I might also mention that Housing Investment Corporation is probably the largest mortgage lender in Puerto Rico.

Q Did he tell you at that time that he was familiar with the proposed apartotel project in Puerto Rico?

A Yes.

Q Did he tell you how he came to be aware of that project?

A Well, he had been made familiar with it by our organization in Puerto Rico, plus the fact that he knows everything that's going on in Puerto Rico of any consequence. He's very, very familiar with everything that happens in Puerto Rico.

Q By "our organization in Puerto Rico", are you referring to --

A Fullana, Alvarez --

Q So he had discussed --

A Melia.

Q So he had discussed the proposed project prior to this meeting with either Alvarez or Fullana or both?

A Oh, sure.

Q Did Mr. Alvarez ever describe to you the substance of any meetings that he had with Mr. Yates?

A I can't recall.

Q How about Mr. Fullana?

A I cannot recall.

Q How did this meeting in New York come to be set up?

A I was told by my office in Puerto Rico that Mr. Yates would be in New York at a certain date. I alerted Mr. Berger to the fact that we would approach -- because Paine, Webber had fizzled with FMI, that we would speak to Mr. Yates about this contract, about this loan.

We met with him at the -- at his hotel in New York, where he was staying. It's not his. And he indicated to us, after hearing what we were looking for, in the terms of construction loan and stand-by, that he would probably extend this loan to us.

Q Was there any discussion --

A Right at the very first meeting with them.

Q Was there any discussion of potential terms at that meeting?

A The length of the loan. We told him the length of the loan we wanted.

Q What did you tell him about that?

A He told us what he thought the ballpark figure would be on interest. He told us how much money he thought he would give us. And a very short time after that meeting, probably a matter of a week or two, we had

our loan.

Q You say that you told him what term --

A I want to add to it.

Our contact with Mr. Yates in the past relative to this was through a broker in Puerto Rico by the name of Mr. Otero. J. J. Otero. I gave an indication to our organization in Puerto Rico that Yates or that Housing Investment would consider this loan and then I had the meeting with Mr. Yates.

Q At the meeting with Mr. Yates, you said that you gave him an indication of how long you would like the loan to be for. Do you recall what it was?

A I think it was five years.

Q Do you recall Mr. Yates' response?

A Positive. The amount.

Q You said, I believe, that you told him how much you wanted and he told you how much they would give. Do you recall what those figures were?

A I told him we would want approximately $18- or $19 million and he said he would consider that, slightly reduced it.

Q What about interest rates?

A Interest rates, I think, as I recall, we asked for 8 or 8½ percent interest and I believe he granted 9

percent.

Q What about pre-payment?

A I don't recall.

Q What about a hold-back?

A At that meeting we didn't discuss anything like that, pre-payment or hold-back. We just wanted the loan.

Q Lender's fees?

A We didn't discuss that. To the best of my recollection. I may be wrong. It wasn't a very long meeting.

Q About how long would you say it lasted?

A Maybe an hour.

Q Following that meeting, did you or anyone else acting on behalf of the defendant have any discussions with Mr. Yates?

A Following that meeting, yes.

Q When were those discussions? Who was involved?

A I believe Mr. Alvarez, Mr. Fullana, Mr. Berger. I don't recall exactly who or how. But I know the loan came through very fast, very quickly after the first meeting, after my meeting with him in New York, I should say.

Q I believe you said that a very short time

after that meeting, a week or two, you had your loan?

A Or we were advised that it was approved by them. I don't recall exactly when the final documents were signed, although I have them in front of me.

Q Do you recall when you were so advised?

A Within two weeks or so after my meeting with Mr. Yates.

Q But you are unable to place the date of that meeting?

A No.

Q How long before the execution of the final documents would you say that you got that advice?

A A very short period, within a couple of weeks.

Q So Plaintiff's Exhibit 1, which was executed, I believe, on October 31st, was prepared within two weeks after you got this advice?

A As I recall, I think so.

Q Could it have been longer?

MR. HOROWITZ: I suppose anything is possible.

A It could have been three or four weeks. I don't know. I recall it being a very short space of time.

Q You say that your contact with Yates was through a broker?

A In this particular deal, yes. Although we knew Yates from Puerto Rico, as witnessed by the fact that he is our tenant.

Q The broker, Mr. Otero, came to Basic Equities and said in substance that HIC might be interested in making this loan; is that correct?

A Yes.

Q Do you know when that was?

A No.

Q Could it have been in June?

A No.

Q July?

A No.

Q August?

A It might have been August. I don't know. It was probably September.

Q How long after Mr. Otero approached Basic Equities did the meeting with Mr. Yates occur?

A Quickly.

Q Two or three days?

A No. Probably a week or two, to the best of my recollection.

Q Was an agreement signed by Inmobiliaria and Mr. Otero?

MR. HOROWITZ: You mean a document in addition to those that I forwarded to you on Monday?

MR. CARR: Yes.

A A brokerage agreement?

Q Yes.

A I don't recall.

Q Either an agreement appointing or naming him as broker or giving him authority to act as broker.

A We knew he was a broker. I don't know whether a document was executed.

Q Was an agreement providing that a fee would be paid to him ever executed?

A Ever? I would imagine it was executed at the time we got the loan from HIC.

MR. HOROWITZ: We have produced some promisory notes and checks. I don't know whether you consider that an agreement. I know I do, an agreement to pay him.

MR. CARR: Why don't we mark these.

MR. HOROWITZ: Fine.

MR. CARR: I would like marked as Plaintiff's Exhibit 9 a two-page document consisting of copies of the front and back sides of three

checks.

(A two-page document consisting of copies of the front- and back-sides of three checks was marked Plaintiff's Exhibit 9 for identification, as of this date.)

MR. CARR: As Exhibit 10, a document entitled "Promisory Note" with a maturity date of June 30, 1974.

(A promisory note with a maturity date of June 30, 1974 was marked Plaintiff's Exhibit 10 for identification, as of this date.)

MR. CARR: And as Exhibit 11, promisory note with a maturity date of April 30, 1975.

(A promisory note with a maturity date of April 30, 1975 was marked Plaintiff's Exhibit 11 for identification, as of this date.)

MR. CARR: As Plaintiff's Exhibit 12 for identification, a promisory note with a maturity date of August 31, 1973.

(A promisory note with a maturity date of August 31, 1973 was marked Plaintiff's Exhibit 12 for identification, as of this date.)

Q Mr. Cohen, I am going to hand you Plaintiff's Exhibits 9, 10, 11 and 12, and ask whether I am correct

in my addition here? It appears that some $90,000 has been paid to Mr. Otero and that $80,000 remains to be paid for a total fee of $170,000.

A That is correct.

Q I believe I asked you whether there was any agreement executed between you and Mr. Otero other than any agreement which might be reflected in these documents, and I don't recall your response.

A I don't know if there was. I can't answer that today. I can check, but I don't know. I have to call Puerto Rico to find out. It may have been referred to in the --

MR. CARR: Mr. Horowitz, if there was such an agreement, can I assume that will be included in the documents that --

MR. HOROWITZ: I had thought so. But I am not sure.

MR. CARR: I believe it's called for by our request.

MR. HOROWITZ: I asked them for it in Puerto Rico. Whether they understood me or not, I have no guarantee. I will ask them again.

BY MR. CARR:

Q But you know of no such agreement?

MR. HOROWITZ: I know of no such agreement. But I don't know what they have in Puerto Rico.

MR. CARR: And Mr. Cohen knows of no such agreement either?

THE WITNESS: That doesn't mean there isn't one.

MR. CARR: I understand that.

MR. HOROWITZ: We will look.

Q How long have you known Mr. Otero?

MR. HOROWITZ: He, personally?

MR. CARR: Yes.

A Twenty years.

Q Is Mr. Otero primarily engaged in the brokerage business?

A To my knowledge -- at the present time?

Q Yes.

A I think so.

Q Was he primarily engaged in the brokerage business in the summer and fall of 1972?

A I have no way of knowing that. I think so because --

MR. HOROWITZ: If you don't know, you don't know.

THE WITNESS: What I am saying is he's

done other things, too. He's been a realtor, he's been an owner of property.

Q Has he ever been associated in any way with any of your companies in Puerto Rico?

MR. HOROWITZ: You mean other than as a broker?

Q Has he ever been employed by any of your companies?

THE WITNESS: Off the record.

(Discussion off the record.)

THE WITNESS: No. Of course not. He's never been employed by any of our companies.

MR. CARR: I think we better get that on the record.

THE WITNESS: He is an independent broker.

MR. HOROWITZ: He has never been employed by you?

THE WITNESS: He is independent. He lives in Puerto Rico. He has in the past been in the real estate business in Puerto Rico and, in response to your question, I believe his major scope of business is brokerage. I don't know, because he has done so many things in the past, but

all in the real estate field.

MR. HOROWITZ: He is not your uncle?

THE WITNESS: Not my uncle. He's not my son, either.

Q You have had business dealings with him before, though; is that correct?

A We have had business dealings with him?

Q You or your companies.

A I believe we had one business transaction with him in the past.

Q Did he act as a broker in that transaction?

A No.

Q Is it your custom when you or any of your companies retain a broker to have a written agreement with the broker?

A Sometimes we do and sometimes we don't.

Q Is there any general guidelines for when you might want to have an agreement, when you might not, or is it completely arbitrary?

A We're very well known in Puerto Rico and brokers that we deal with know that -- some of them know that they will get their brokerage whether they have an agreement or not and some of them demand a brokerage agreement. So I really don't know what percentage of the

cases we sign a brokerage agreement. Alvarez would be in a better position to tell me. I could ask him that and find out. I do know that no broker ever asked us for a good-faith deposit.

Q No broker ever asked you for a good-faith deposit?

A Other than Paine, Webber in my history in the real estate business.

Q Did you personally have any communication with Mr. Otero relating to this transaction?

A No.

Q To your knowledge, did anyone, other than Mr. Alvarez and Mr. Fullana?

A On our side?

Q On your side, or the defendant's side.

A It was Alvarez and Fullana.

Q Do you have any knowledge of the substance of those communications other than the initial contact that you have described earlier?

A I am sure they had several meetings. I am sure that Alvarez and Fullana had several meetings with Mr. Otero. A couple of meetings at least.

Q Were you informed of that by Mr. Alvarez and Mr. Fullana?

A I was informed of it at a point where it looked like they were seriously considering it and that he would be in New York in a matter of days or a week or something, very short space of time, and then I had my meeting with Yates, which Berger attended.

MR. CARR: I am going to have to take about two minutes and look at this document which I have never seen before.

(A brief recess was taken.)

BY MR. CARR:

Q Mr. Cohen, I hand you Plaintiff's Exhibit 1 which appears to be the loan and pledge agreement between the defendant and HIC and ask you whether that agreement was executed on October 31, 1972.

A Yes, it was.

Q Who executed on behalf of the defendant?

A Fullana.

Q Did Mr. Fullana execute the agreement with your consent?

A Yes.

Q What is the amount of the loan that is provided for in that agreement?

A It varies, from $17 million -- I believe it varies from $17,250,000, it varies upwards to $17,750,000.

MR. HOROWITZ: The document speaks for itself. It's a long document. Do you really want him to go through it?

MR. CARR: Roughly $17½ million?

MR. HOROWITZ: 17¼, a little more, whatever.

THE WITNESS: That is correct.

Q What interest rate is provided for?

A Nine percent.

Q I believe on page 4 of that document there is a reference to three mortgages. Do you know why three mortgages were given?

MR. HOROWITZ: Where is the reference to three mortgages? You are referring to subparagraph E on that page?

Q Is the mortgage for 17 million and $1,250,000 one mortgage?

A I don't know.

Q And then it also refers to a mortgage for $10 million.

A It's 18.2. Maybe it's 18.2 then.

Q Subparagraph refers to mortgages in the total amount --

A Let's call it $18 million.

Q Was the amount of the contemplated loan to be $18,250,000?

A It looks that way.

MR. HOROWITZ: We will stipulate that the sum total of what's stated in paragraph sub-E on page 4 is $18,250,000.

THE WITNESS: That's D and E.

MR. HOROWITZ: That's who?

THE WITNESS: E, okay. It's $18,250,000.

Q Subparagraph E refers to a mortgage or two mortgages which have already been recorded. Do you know when those mortgages were recorded?

A When they were recorded? I don't know that.

Q Would it have been some time prior to this date, October 31st?

A Prior? I don't know.

I don't know.

MR. HOROWITZ: He's not a lawyer. He doesn't know about recording.

MR. CARR: I am just asking. It seemed curious it referred to mortgages which had already been recorded and I wondered whether he knew nothing about that.

THE WITNESS: No.

BY MR. CARR:

Q If you look at page 15 of the agreement --

MR. HOROWITZ: What portion of page 15?

MR. CARR: Subparagraph D.

Q That provides for a guarantee by Basic Equities and Development. Do you know whether that guarantee was actually given?

A Yes.

Q Is a copy of that guarantee attached to this exhibit at the end?

I believe it's the last exhibit.

MR. HOROWITZ: You mean the last document?

MR. CARR: Right, which appears to be a three-page document.

MR. HOROWITZ: It's a three-page document signed by Pedro Fullana; right?

THE WITNESS: No.

Well, it's signed by Alvarez and Fullana.

MR. HOROWITZ: Both of them and notarized.

BY MR. CARR:

Q This appears --

THE WITNESS: He signed for Basic Equities and he signed for Pedro Fullana. Pedro Fullana has no part of Basic Equities.

Q Between June and October 31st of 1972, had some agreement been reached with Massachusetts Mutual --

A It's State Mutual.

Q -- which allowed Basic Equities to guarantee this loan?

A Between March -- possibly.

Q Do you recall having any discussions with State Mutual?

A No.

Q Do you recall any communications of any sort between you and any of the other principals of the defendant and State Mutual about this subject during that period?

A I don't recall.

Q You testified earlier, didn't you, that State Mutual wouldn't allow Basic Equities to guarantee the proposed loan from FMI?

A Right.

Q Yet they did allow Basic Equities to guarantee the loan from HIC?

A It appears that way.

Q You have no recollection of any discussions by anyone --

A I don't know. I wouldn't say anyone. I know I didn't have any discussions.

Q I believe I asked whether anyone else, to your knowledge, had any discussions.

A I will have to check. I don't know.

Q Mr. Fullana is not employed by Basic Equities?

A No.

Q Would it be correct to assume that any dealings with the creditors of Basic Equities would be undertaken by either you or Mr. Alvarez?

A That's that?

MR. HOROWITZ: Any dealings between Basic Equities and First whatever-it-is by you or Alvarez?

THE WITNESS: No.

Q Who else could those communications have involved?

A It probably would have been Alvarez or myself.

Q But it could have been someone else?

A I don't think so. I don't think there could have been anybody else.

Well, it might have been my controller, Mr. Caseres.

Q But it wouldn't have been Mr. Berger or Mr. Fullana?

A No.

Q Now, that document provides that funds will be advanced from time to time, does it not?

MR. HOROWITZ: Do we have to really go through something that's in the agreement?

MR. CARR: All right, I won't ask you to characterize the agreement.

Q Has the entire amount of the loan which is provided for in that agreement, whatever it might be, been advanced to the defendant?

A What?

MR. HOROWITZ: Have you gotten all the money?

THE WITNESS: No, of course not.

The entire amount of this loan?

MR. HOROWITZ: Yes.

THE WITNESS: No. We haven't gotten anywhere near the amount of the money.

Q How much have you gotten?

A I don't know at this point. But it's a fraction

of the money.

Q Thirty percent, twenty percent?

A It might be 25 percent. I don't know. I don't know what that number is.

Q When was the first payment made?

A I don't know.

Q Would it have been soon after this agreement was signed?

A Yes.

Q Was this agreement executed in Puerto Rico?

A Yes.

Q Were you present?

A No. Alvarez was present and apparently a notary public.

THE WITNESS: All lawyers in Puerto Rico have to be notary publics.

Q Was a formal application for a commitment executed in connection with the HIC loan?

MR. HOROWITZ: A written thing?

THE WITNESS: I don't know. If it was, it was executed in Puerto Rico. I don't know whether it was necessary.

MR. HOROWITZ: You didn't execute it and you didn't see one?

THE WITNESS: No, I didn't execute it. To the best of my knowledge, I didn't see one.

Q Is construction now proceeding at the site?

A Yes, it is.

Q Is there a sign on the project that says "Financing provided by HIC"?

A There is a sign, but I don't know if it says "Financing provided by HIC". It's possible. I was just there.

MR. HOROWITZ: Next time you go, take a look.

Q Would Mr. Otero's name be on the sign?

A Oh, no.

Q Have you ever dealt with a broker in which the name of the broker who arranged the financing appears on the sign in the construction site?

A Not in Puerto Rico, it isn't done like that usually. I see it here a lot in the States.

Q Not in Puerto Rico?

A No. It's usually the institution that lends. Like here I see "Construction arranged by Sonneblick, Goldman".

Q Have you ever been involved in a transaction or construction in which the broker's name appeared on

the sign?

A The broker who obtained the mortgage?

Q Yes.

A To the best of my knowledge, no.

Q Mr. Cohen, certain documents have been produced which refer to other proposed transactions between primarily Basic Equities and Paine, Webber. These include two applications for commitment, neither of which appears to be signed.

A For other properties?

Q Yes. One relates to the M and M building.

A They were equally successful on those two transactions.

Q My question was to be whether anything ever came of this.

A No. We just wasted time like we did here.

Q Did you sign a copy of these applications?

A Most probably. As I recall, yes.

Q Do you recall why it was that Paine, Webber was unable to come up with the lender?

A I can't tell you why they weren't able to. But subsequent to that we were able to -- we have been arranging financing for those things.

Q Did you later obtain financing for both of

these buildings?

THE WITNESS: Do I have to answer that?

MR. HOROWITZ: If you know. Do you know?

THE WITNESS: I don't know. One of them, I think.

Q You don't know whether you got financing on these buildings?

A Personal financing is what you are talking about there?

Q Yes. Were these buildings that were already existing?

A One of them was already financed and we were looking for a different mortgage.

Q Did you get that different mortgage?

A Yes. One of them; not on the other.

Q Do you know when you got the mortgage?

A When, no; I can't tell you when. This is a year and a half ago. They didn't get us anything. Paine, Webber got us nothing, but they wasted a lot of my time. They ain't good mortgage brokers.

MR. CARR: I have heard a little different story.

THE WITNESS: On what?

MR. CARR: I am not testifying here.

THE WITNESS: Neither am I testifying here. I don't know why you are asking about other properties. You have heard that they could have gotten us the mortgage and for some reason on our side they didn't.

MR. CARR: I have substantially completed the examination. Mr. Cohen has to leave. I can't say definitely that we won't want to continue, although I understand that Mr. Horowitz probably reserves his right to consider the deposition at an end.

MR. HOROWITZ: I reserve my right to think about it and do whatever I decide to do.

THE WITNESS: If I have to come back -- gentlemen, in any event, that's it for today.

(A letter dated June 16, 1972 was marked Plaintiff's Exhibit 13 for identification, as of this date.)

(A letter dated June 16, 1972, with attachments thereto, was marked Plaintiff's Exhibit 14 for identification, as of this date.)

(An application for commitment, dated June 14, 1972, was marked Plaintiff's Exhibit

15 for identification, as of this date.)

(A letter dated June 2, 1972 was marked Plaintiff's Exhibit 16 for identification, as of this date.)

(A letter dated June 2, 1972, together with an application for commitment, was marked Plaintiff's Exhibit 17 for identification, as of this date.)

(A letter dated May 31, 1972 was marked Plaintiff's Exhibit 18 for identification, as of this date.)

(An application for commitment, dated June 14, 1972, was marked Plaintiff's Exhibit 18-A for identification, as of this date.)

(A letter, dated June 7, 1972, with an attachment, was marked Plaintiff's Exhibit 19 for identification, as of this date.)

(Time noted: 2:15 o'clock p.m.)

_____

Subscribed and sworn to before me

this_____day of_____1974.

_____

C E R T I F I C A T E

STATE OF NEW YORK)
: ss.
COUNTY OF NEW YORK)

I, GERALD I. METZ, a Certified Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify that the foregoing examination before trial of MARTIN L. COHEN was held before me on the 28th day of February, 1974;

That the said witness was duly sworn before the commencement of his testimony; that said testimony was taken stenographically by myself and then transcribed; and that the within transcript is a true record of the said examination before trial.

I further certify that I am not connected by blood or marriage with any of the parties herein, nor interested directly or indirectly in the matter in controversy, nor am I in the employ of any of the counsel in this matter.

IN WITNESS WHEREOF, I have hereunto set my hand, at the County and State of New York, this 4th day of March, 1974.

Gerald I. Metz, CSR

Gerald I. Metz, CSR

I N D E X

WITNESS	EXAMINATION BY	PAGE
Martin L. Cohen	Mr. Carr	3

EXHIBITS

PLAINTIFF'S		FOR IDENT.
1	A document entitled "Loan and Pledge Agreement", dated October 31, 1972	17
2	A letter dated May 12, 1972, from Mr. Fullana to Mr. Wilkes	38
3	A letter dated May 22, 1972, from Mr. Wilkes to Mr. Cohen	39
4	A letter, dated June 7, 1972, from Paine, Webber to Inmobiliaria with three checks attached	45
5	A letter dated June 7, 1972, from Mr. Berger to Mr. Wilkes	45
6	A letter, dated June 7, 1972, from Mr. Wilkes to Mr. Berger	46
7	A signed copy of a letter dated June 26, 1972, from Mr. Wilkes to Inmobiliaria	49

(signed copy of P.C. Exhibit)

-continued-

I N D E X (Continued)

EXHIBITS

PLAINTIFF'S		FOR IDENT.
8	A three-page document consisting of a letter dated July 5, 1972 from Mr. Cohen to Mr. Frame; an executed application for commitment; and xerox copies of three checks	Same as DXK 51
9	A two-page document consisting of copies of the front- and back-sides of three checks	96
10	A promisory note with a maturity date of June 30, 1974	96
11	A promisory note with a maturity date of April 30, 1975	96
12	A promisory note with a maturity date of August 31, 1973	96
13	A letter dated June 16, 1972	113
14	A letter dated June 16, 1972, with attachments thereto	113
15	An application for commitment, dated June 14, 1972	113
16	A letter dated June 2, 1972	114
17	A letter dated June 2, 1972, together with an application for commitment	114

-continued-

I N D E X (Continued)

EXHIBITS

PLAINTIFF'S		FOR IDENT.
18	A letter dated May 31, 1972	114
18-A	An application for commitment, dated June 14, 1972	114
19	A letter, dated June 7, 1972, with an attachment	114

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LOAN AND PLEDGE AGREEMENT

THIS AGREEMENT, dated as of the 31st. day of October, 1972, made and entered into at San Juan, Puerto Rico by and between INMOBILIARIA MELIA DE PUERTO RICO, INC., a corporation organized and existing under the laws of the Commonwealth of Puerto Rico (referred to herein as Borrower) and HOUSING INVESTMENT CORPORATION, a corporation organized and existing under the laws of the State of Delaware and duly qualified to do business in the Commonwealth of Puerto Rico (referred to herein as "HIC" or "The Company".

W I T N E S S E T H : That

WHEREAS, Borrower has applied to HIC for loans contemplated by this Agreement and HIC has agreed to make such loans to Borrower subject to the provisions hereof and the parties desire to enter into this Agreement for the purpose of setting forth the terms and conditions of their agreements in the premises;

NOW, THEREFORE, in consideration of the premises and of the pledge and delivery of securities as set forth herein and of the mutual and several agreements, covenants, warranties, and representations of the parties herein set forth, the parties hereto do agree as follows:

PART A - DEFINITIONS

1. As used in this Agreement unless the context otherwise requires the following words and terms shall have the following meanings:

Agreement: This loan and Pledge Agreement.

Apartment: The structure occupying all or part of a floor in a building of one or more floors or stories regardless of whether the part constructed be destined to residence, offices, operation of any industry or business, or to any other type of independent utilization, provided it has direct exit to a thoroughfare or to given common space leading to a thoroughfare (Title 31 L.P.R.A. Section 1291a), and all easements, servitudes, common elements thereto and any other thing appurtenant thereto, which apartment forms part of the Project.

Bank: The Bank participating in this financing.

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Borrower: INMOBILIARIA MELIA DE PUERTO RICO, INC., a corporation organized and existing under the laws of the Commonwealth of Puerto Rico (also referred to as Builder and or Owner).

Bank-HIC Loan Agreement: The Loan and Pledge Agreement to be executed between HIC and the Bank, under which HIC pledges to the Bank the securities pledged to HIC under this Agreement.

Contract of Sale: A valid and binding agreement between the Owner and an individual by which such individual obtains the right to purchase and apartment in the Building erected on the Site, which apartment forms part of the Project, and under which such individual shall have deposited with the Borrower a down payment of at least $500.00. All such deposits of down payments will be transferred to and will remain in escrow with the Company and will not be utilized for the construction of the Building.

Cost of Construction: The Cost of the Building and the cost of construction of the apartments therein as appears in Exhibit "A".

Guarantee: The Guaranty Agreement referred to in paragraph 7(b) of this Agreement.

Guarantors: The corporations and/or individuals required to execute the Guarantee under the provisions hereof.

Mortgage: The mortgage referred to in paragraph D-3 of this Agreement.

Obligations: All indebtedness and obligations of the Borrower to HIC, direct or indirect, absolute or contingent, joint or several, due or to become due, now existing or hereafter arising, incurred under this Agreement or any instrument referred to herein and any extensions or amendments hereof or of any such instrument.

Payment Breakdown Schedule: The schedule set out in Exhibit "C" attached to this Agreement.

Permitted Encumbrances:

(a) Liens, encumbrances, mortgages, pledges or other encumbrances which are junior or subordinate to the lien of the Mortgage.

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(b) Liens arising out of judgments or awards with respect to which the Owner-Builder shall in good faith be prosecuting an appeal or proceedings for review and in respect of which the Owner-Builder shall have set aside on its books reserves which it deems adequate with respect to each such judgment or awards;

(c) Liens for taxes, assessments, governmental charges, or levies, if payments of such taxes, assessments, governmental charges or levies shall not at the time be required to be made;

(d) Easements, exceptions or reservations in property of the Owner which do not materially impair the use of such property for the purposes for which it is held by the Owner.

Planning Board: The Planning Board of the Commonwealth of Puerto Rico.

Project: All development and construction work to be done by the Borrower on the Site for the Melia Apartohotel, including development of the Site and construction of 611 apartohotel units thereon, all in accordance with the required approvals of the Planning Board and of FHA.

Site: The real property described in paragraph First of the Mortgage being the real property on which is to be developed the Project.

PART B - REPRESENTATIONS AND WARRANTIES

2. Borrower represents and warrants as follows:

(a) Borrower is a corporation duly organized and existing and in good standing under the laws of the Commonwealth of Puerto Rico and has all requisite power, authority and legal right to own its properties and to carry on its business as now conducted and as proposed to be conducted or carried on.

(b) Borrower has full power, authority and legal right to borrow money and mortgage its property as contemplated hereby, to execute and deliver the Mortgage Notes, the Mortgages, the Notes, this Agreement and all other documents executed or to be executed by it as contemplated hereby and all corporate and other action has been duly and effectively taken to authorize the borrowing of the moneys to be borrowed hereunder and the valid execution, delivery and performance of the Mortgage Notes, the Mortgages, the Notes, this Agreement and all other documents referred to herein and to constitute this Agreement and such instruments and documents when executed and delivered to be valid, legally binding and enforceable obligations of the Borrower.

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(c) Borrower possesses all franchises and rights necessary for the conduct of its business as now conducted or proposed to be conducted.

(d) Borrower has good and marketable dominion title to all property and assets specifically described or referred to in or otherwise intended to be encumbered by the Mortgage in guarantee of a promissory note for TEN (10) MILLION DOLLARS and except for the lien of the referred Mortgage none of such property is encumbered by any mortgage or other lien, except a mortgage in gurantee of two (2) promissory notes in the amounts of SEVEN (7) MILLION DOLLARS and ONE MILLION TWO HUNDRED FIFTY THOUSAND DOLLARS ($1,250,000.00) which promissory notes will be endorsed and delivered to HIC simultaneous to this execution.

(e) The Mortgage for SEVEN (7) MILLION DOLLARS and ONE MILLION TWO HUNDRED FIFTY THOUSAND DOLLARS ($1,250,000.00) have been already recorded at page 74 volume 273 of Carolina, property number 10,523, 3rd. Entry, and the Mortgage for TEN MILLIONS DOLLARS ($10,000,000.00) has been duly executed and a certified copy thereof will be duly filed for record in the Registry of Property of Puerto Rico, Carolina Section, and is entitled to be recorded, and the Mortgage(s) constitute(s) and is a valid and legally enforceable lien upon the property specifically or generally described or referred to therein and intended to be encumbered by the Mortgage(s).

(f) The warranties and representations of the Borrower set forth in the Mortgage are true and correct.

(g) All representations and warranties of the Guarantors set forth in the Guarantee are true and correct.

(h) The Builder is not a party to any contract or agreement or is subject to any charter or other corporate or other legal restrictions of any kind which, in the opinion of the Builder, materially and adversely affects the businesses, properties, assets or conditions, financial or otherwise, of the Builder; and neither the execution and delivery of the Agreement, the consummation of the transactions contemplated herein, nor the compliance with the terms, conditions and provisions of this Agreement and of the Notes will conflict with or result in a breach of the terms, conditions or provisions of, or constitute a default under the charter or by-laws of the Builder or any agreement or other instruments to which it is a party or by which it is bound or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the properties or assets of the

Borrower, except as permitted by the provisions hereof.

(i) The sewage treatment plant to which the Project is to tie-in is of sufficient capacity and proper design and will provide adequate sewage service to all Apartohotel Units contemplated to be constructed thereon under the provisions hereof. The contracts to tie-in to this sewage treatment plant have already been executed and the same are legally binding to all concerned.*

(j) Public water service is available to serve the Site and all Apartohotel Units contemplated to be constructed thereon.

(k) All information which has been furnished to HIC with respect to the financial condition of the Borrower and the Guarantors is correct and is complete in regard to the matters purported to be shown thereby.

PART C - COVENANTS OF BORROWER

A. Affirmative Covenants:

1. The Borrower covenants that it will:

(a) Apply the proceeds of all loans made by the Company to the Borrower to the payment or repayment of the Cost of Construction of the Project;

(b) Prosecute the work on the Project with diligence to its final completion;

(c) Maintain proper books of record and account in accordance with sound accounting practice, in which full, true and correct entries shall be made of all its dealings and business affairs, and not later than 90 days after the end of each annual accounting period submit to the Company audited financial statements prepared by independent public accountants satisfactory to the Company. The company may require semiannual financial statements prepared by independent public accountants.

* This contract is being negotiated. All off-site costs of project will be paid by Borrower and it is expected that contracts will be executed within 9 months of date hereof.

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Not later than 10 days after the end of each quarter, submit to the Company an aging of accounts payable, and receivable as well as unaudited financial statements signed by the chief financial officer of the Owner-Builder. In any event, within 90 days of Project completion and final apartment closings, Builder will prepare and submit to the Company closing financial statements audited by independent public accountants;

(d) Furnish to the Company from time to time such information in connection with the business of the Builder as the Company may reasonably require and permit any officers or qualified employees or representatives of the Company to visit and inspect any of the properties of the Builder and discuss the affairs, finances and accounts of the Builder with officers thereof, all at such reasonable times and as often as the Company may reasonably request;

(e) Furnish to the Company a title insurance policy issued by a company acceptable to the Company and as to any portion of the work to be performed by subcontractors furnish to the Company payment and performance bonds in favor of the Builder and endorsed to the Company and shall also furnish to the Company Builder's Risk Insurance all issued by a company acceptable to the Company;

(f) Keep all insurable property, real and personal, owned by it, insured at all times against loss or damage by hazards or the kind customarily insured against and in the amounts customarily carried by corporations engaged in comparable businesses and comparably situated; cause all insurance policies covering property subject to the Mortgage to be endorsed with a standard Mortgage clause providing for payment of the proceeds thereof to the Owner and/or the Company, as their respective interests may appear; effect all such insurance under valid and enforceable policies issued by insurers of recognized responsibility satisfactory to the Company and deposit the originals of all such policies with the Company;

(g) Maintain, preserve and renew all rights, powers, privileges, franchises and approvals of the Planning Board which the Builder has now or may hereafter acquire, to the extent that in the bona fide opinion of the Board of Directors of the Builder such rights, powers, privileges, approvals and franchises continue to be advantageous to the Builder;

(h) Deposit a $500.00 down payment made by the parties agreeing to purchase apartments in the Project in connection with and under agreements for purchase directly into a special escrow account to be maintained by the Company in one of the Banks in Puerto Rico. The special escrow account required hereby shall be kept in existence until all loans made hereunder shall have been repaid. Funds deposited in the special escrow account required hereby shall bear no interest and shall not be used for any purpose other than for the repayment of loans made hereunder and shall not be utilized for the construction of the Borrower.

B. Negative Covenants: The Borrower covenants that as long as the Company is obligated to make loans to the Borrower hereunder, and until all Notes issued hereunder and accrued interest thereon shall have been fully paid, the Borrower will not, without the prior written consent of the Company:

(a) Create, assume or suffer to exist any mortgage, pledge, encumbrances or other lien on any properties or assets of the Borrower specifically or generally described or referred to in the Mortgage, or of any of its fixed assets, whether now owned or hereafter acquired, except the Mortgage and Permitted Encumbrances;

(b) Create, incur, guarantee, endorse, assume or suffer to exist any indebtedness except (i) indebtedness to the Company, (ii) indebtedness evidenced by the Permitted Encumbrances, and (iii) current indebtedness;

(c) Liquidate, merge or consolidate with any other corporation, or lease, sell transfer or dispose of any of its assets (including the Mortgaged Property) other than in the ordinary course of business;

(d) Assign any accounts receivable, create any subsidiary or invest in the capital stock of any subsidiary, or make or have outstanding at any time any loans or advances to or extend credit to any person, firm or corporation except advances to contractors engaged in the construction of the Project for work actually performed thereon; and also excepting payments made on account of work or services actually performed or rendered;

(e) Engage in any business activity other than the construction of the Project in the ordinary course of business;

(f) Declare or pay any dividends on any share of its capital stock.

(g) Purchase or acquire, for value or for a purchase price exceeding $10,000.00, any fixed assets other than for the construction of the Project; or

(h) Increase any salaries over the amounts presently being paid by the Borrower its officers.

PART D - LOANS-LIMITATIONS-CONDITIONS-PURPOSES

1. Commitment:

Construction Loan: Subject to the terms and conditions and relying upon the representations and warranties herein set forth, the Company agrees to make loans to the Owner at any time or from time to time, up to the sum of SEVENTEEN MILLION EIGHT HUNDRED TWELVE THOUSAND DOLLARS ($17,812,000.00) on a non-revolving basis, for the construction of the project, provided that the total amount of advances outstanding at any one time shall not exceed 80% of the appraised value of the Mortgaged Property as determined by the Company's supervising architect. There shall be a 5% to 10% holdback on prime contractor payments until completed project is officially certified for occupancy.

2. Interest Rate: The Notes to be issued hereunder in connection with the Construction Loan shall be payable on demand and shall bear interest from their respective dates at the rate provided in paragraph four hereof.

3. The Mortgage: Prior to the execution of this transaction the predecessor in title of the Borrower executed and delivered to its creditors Promissory Notes in the amounts of $7,000,000.00 and $1,250,000.00 guaranteed with a Deed of Mortgage over the Site as appears from Deed No. 72, executed in San Juan, Puerto Rico, on the 23rd day of December, 1966, before Notary Public Luis E. Dubón, Jr., and which mortgage was recorded at Page 74 of Volume 273 of Carolina, Puerto Rico, Property No. 10,523, third entry, and simultaneous with this execution Borrower has executed a mortgage in guaranty of a Promissory Note for $10,000,000.00, as appears from Deed No. 136----, dated the 31st day of October, 1972, before Notary Public José Manuel Calderón Cerecedo, and which deed will be presented for recording in the Registry of the Property of Carolina, Puerto Rico, and will be duly recorded, and the above Promissory Notes and Deeds have been insured under Policy No. 53-001-02-03272, of Chicago------ Title Insurance Company (and the above Deeds will be hereinafter referred and/or called "the Mortgages"). "The Mortgages", the "Promissory Notes" and the endorsements in the Promissory Notes for $7,000,000.00 and $1,250,000.00 have been found in form and substance satisfactory to the Company and its Counsel and they cover the parcel of land wherein the building is to be erected and all machinery, apparatus, equipment, fittings, fixtures and articles of personal property used or procured for use in connection with the

operation of said building attached to or installed in said building on the completion date and at any time thereof (said building, machinery, apparatus, equipment, fittings, fixtures and articles of personal property being herein called "the Improvements"). EV 127

4. Construction Loan Notes: Each construction loan made hereunder shall be evidenced by a Note of the Owner, in the form annexed hereto as Exhibit "B" (hereinafter called "the Note"), with blanks appropriately filled in as to the date and principal amount. Each Note shall bear interest from the date thereof at the rate of 9%. Borrower agrees to pay interest on loan amounts outstanding and unpaid in accordance with the foregoing provisions of this paragraph. Interest shall be payable on the first day of each and every month following the date of the Note except that upon payment or prepayment of any note in full, interest shall be paid up to the date of such payment or prepayment. There shall also be paid to the Company a brokerage commission of 4% of the total amount of the loan. This amount will be collected at the time of closing of the loan agreement and HIC will advance the same at closing.

5. Disbursement of Funds: Disbursement of funds on the loan will be as provided for in the Payment Breakdown Schedule (see Exhibit "C"). Borrower represents such cost breakdown to set forth substantially correct amounts which will be incurred and paid by Borrower as the cost of the project and warrants that the total cost itemized on Exhibit "A" or otherwise required to complete the development of the project, will not materially exceed the total estimated cost set forth in Exhibit "A". Borrower has advised HIC of its intention to obtain bids of some portions or all of the work for the project and to the extent requested by HIC shall obtain bids before work is commenced. In the event that bids from reputable contractors or subcontractors shall indicate that all or portions of the work can be constructed and installed at costs less than those estimated on Exhibit "A" or in the event that Borrower shall enter into contracts or subcontracts reflecting costs less than as set forth on Exhibit "A", then, in either such event, Exhibit "A" shall be revised to reflect the reduced costs. Borrower agrees that HIC will have the right to approve the general contractor and major subcontractor to be used in the construction of the buildings. In addition payment and performance bonds will be required to the effect. Loans to be made available hereunder in connection with the Cost of the project shall be disbursed from time to time in amounts which at the date of the application therefor have been expended and/or are justly owing by the Borrower on account of the Cost of the Project not exceeding, however 90% of the value of the Project of work in place and satisfactorily completed as of the date of the loan application or as of the effective date of the engineer's certificate which is to accompany the application, whichever date shall be earlier, less all prior loans made hereunder in connection with the Cost of the project. In referring in this paragraph 5 to the value of the work in place and satisfactorily completed, the term "value" shall be deemed to mean the value, as determined by the Company's supervising architect,

of the work completed and in place computed on the basis of cost estimates set forth in Exhibit "A" (as such costs are now set forth therein or as such costs may hereafter be reduced as the result of the obtaining of bids or from the letting of contracts or subcontracts, whichever cost shall be the lesser) or on the actual costs to Borrower, whichever shall be less.

6. Application for Loans:

(a) Application for loans shall be made from time to time in amounts based on the progress of work in place and satisfactorily completed at the time of the request for advance. Applications for loans should be signed by an engineer licensed in Puerto Rico acceptable to HIC and by a responsible officer of the Borrower.

(b) The Borrower shall not be entitled to any loans, or to make application for any loans, other than loans to cover amounts which shall at the time of the application therefor have been expended and/or be justly due and owing by the Borrower on account of the Cost of Construction of the Project.

(c) Applications for loans shall be submitted not more often than twice each month, shall be addressed to HIC, shall be in writing on form annexed hereto as Exhibit "D" (property completed and containing the certifications set forth therein) shall be executed on behalf of the Borrower by a responsible officer of the Borrower and an engineer as provided in 6(a) when construction work is included in the loan request, and shall be accompanied by such certificates, schedules or other documents as shall be required under the terms of this Agreement. All applications for loans and other documents required to be submitted or delivered to HIC by the terms of this Agreement shall be submitted or delivered in triplicate. In order to allow HIC sufficient time to process and investigate each loan application it shall be entitled to delay the making of each requested loan disbursement, for not more than five days after it has received the loan application and the other documents required.

7. Obligation of HIC to make loans:

The obligation of HIC to make loans hereunder is subject to the accuracy of all representations and warranties of the Borrower herein contained, to the performance by the Borrower of its agreements to be performed hereunder, to the compliance by the Borrower with all the terms, conditions and contingencies herein contained, to the limitations on lending herein set forth, to any other requirements of this Agreement and to the following further conditions.

(a) No event of default shall exist hereunder or under the Mortgage Note or Mortgage.

(b) HIC shall have already received Guaranty Agreement on form heretofore delivered to Borrower by HIC duly executed by and being the joint and several obligations of the guarantors Basic Equities and Development Corp., Inmobiliaria Melia S.A., Francisco Melia and Pedro Fullana, such Guaranty

shall remain in full force and effect and no default on the part of either or any of the Guarantors shall exist thereunder.

(c) HIC shall have received insurance policies or other evidence acceptable to it evidencing that all insurance then required to be maintained by Borrower under the provisions of this Agreement is in force and effect.

(d) HIC shall have received copies of all Planning Board approvals and approvals of other governmental bureaus or agencies and applications for approvals pending at the Planning Board, building permits, and Contracts of Sale then required to have been delivered to HIC under the terms of this Agreement and also any other documents then required to have been delivered to HIC under the terms of this Agreement or which Borrower has agreed to deliver to HIC under the provisions hereof.

(e) HIC shall have received prior to the making of the first loan hereunder approval of the Planning Board and of all other governmental bureaus or agencies having jurisdiction and all permits or licenses necessary to allow the Borrower to proceed with construction of land improvements and prior to the making of any loan shall have received all approvals of the Planning Board and of all other governmental bureaus or agencies having jurisdiction and all permits or licenses necessary to allow the Borrower to proceed with construction.

(f) HIC shall have received the application for the loan together with certificates and other documents required to be submitted or delivered to HIC with the application or as a condition to the loan.

(g) HIC shall have received the Note in the amount of the loan.

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(h) The representations and warranties of the Borrower contained herein and the representations and warranties of the Guarantors contained in the Guaranty shall be true and correct on and as of the date of the loan with the same effect as though such representations and warranties had been made on and as of such date of the loan except insofar as such representations or warranties are affected by transactions contemplated by this Agreement.

(i) All legal details and proceedings in connection with the transactions contemplated by this Agreement shall be in form and substance satisfactory to HIC and to counsel satisfactory to HIC, and HIC shall have received all such counterpart originals or certified or other copies of such documents and proceedings in connection with such transactions in form and substance satisfactory to HIC, as HIC may reasonably request. HIC shall have received the opinion of counsel satisfactory to HIC covering the representations and warranties of the Borrower set forth in paragraph 2 of Part B of this Agreement.

(j) HIC shall have received evidences of title insurance coverage satisfactory to HIC insuring the lien of the Mortgages subject only to exceptions acceptable to HIC, and such evidence of title insurance coverage shall be issued by a company acceptable to HIC and at the time of each loan shall remain in full force and effect.

(k) Borrower shall have paid all costs and expenses required to be paid by it under the provisions of this Agreement and which are due and payable at the time of the loan.

(l) Borrower shall have paid to HIC all portions of the fee payable to it under the provisions of this Agreement and which are due and payable at the time of the loan.

(m) HIC shall have approved and found acceptable all contractors or sub-contractors who are to perform work in connection with the Project other than the Borrower.

(n) The company shall have received, at the time of making the first loan hereunder, an opinion of counsel satisfactory to the Company as to such matters incident to the transactions herein contemplated as the Company may reasonably require.

8. Execution of the Conventional Mortgage and Releases:

(a) It is hereby understood and agreed that the Company will make conventional permanent mortgage loans to the purchasers of the apartments being constructed hereunder in accordance with commitments issued to said purchasers. Each loan shall conform to and comply with the Company's usual requirements and shall bear interest at the prevailing rate for conventional loans at the time of loan closing. All other conditions pertaining to the permanent loans such as terms, discount, fees or commissions to which the Company is entitled to will be governed by the prevailing market conditions at the time of loan closing. Borrower will pay a commitment fee of 1% of the estimated amount of each mortgage. All closing costs, discount, and an origination fee of 2-1/2% of each permanent loan, will be for the account of Borrower if these are not paid by the individual buyer.

(b) There will be paid to the Company by the Owner a fee for each apartment which is sold on a cash basis, where no permanent loan is closed by the Company of $500.00 per apartment. If the Builder request to be released from this Agreement, the Builder shall pay to the Company a non delivery fee of $500.00 per unit, where no permanent loan is closed by the Company. The Company shall use its counsel for the purpose of preparing conventional mortgages and the purchase and sale deeds covering the apartment within the Project and acting as notary before whom such mortgages shall be executed.

(c) HIC, through, its employees, engineers or other agents as it may select, shall have the right at all times and from time to time to inspect the property from time to time encumbered by the Mortgage. HIC will undertake the inspection of the requisition based on progress of installation and construction of the building through an engineer selected by HIC at the expense of Borrower.

(d) The Company shall have been furnished by the Owner with the final Compliance Inspection Report, approved by an independent engineer satisfactory to the Company. The Buyer named in the corresponding Commitment shall have executed a deed of purchase and sale with the Owner covering the apartment and shall likewise have executed with the Company a mortgage upon the said apartment for the amount of the Commitment. The Company shall have received the proceeds of the mortgage above mentioned. EV 132

(e) It is agreed and understood that if HIC, by reason of any of its undertakings or appearance under this contract, should be made a coparty defendant in any action brought against the Borrower hereunder predicated on a defect of construction (defecto de construcción), or for any other cause, and HIC should have to appear in any such action, then the Borrower undertakes that it will reimburse HIC for any of its reasonable expenses, fees and costs in defending said action.

9. Repayment of Construction Loan: All proceeds from the sales of the apartments will be received by the Company so that the Company's outstandings are completely liquidated when 80% of the expected sales revenue has been realized.

Owner agrees to set final apartment pricing and to commence active marketing not later than four months after this execution. The Company has the right to review and to modify and/or approve Owner's pricing and marketing program.

10. "Improvements" in addition to the improvements referred to in paragraph 3 Part D of this Agreement. Borrower and/or Inmobiliaria Melia S. A. will furnish all equipment for apartments and hotel facilities ready for occupancy.

PART E - SECURITIES FOR LOANS

1. The Owner-Builder hereby pledges and hypothecates the following:

(a) The Mortgage Notes and Mortgage for TEN MILLIONS DOLIARS of the Bearer to secure the punctual payment of all obligations hereunder as well as the punctual performance of all conditions, covenants and undertakings of the Owner, under this Agreement.

(b) Any and all other securities at any time deposited with HIC by the Borrower or otherwise held by HIC pursuant to the terms of this Agreement or otherwise to wit the Mortgage Notes and Mortgage in favor of bearer for SEVEN MILLION DOLLARS and ONE MILLION TWO HUNDRED FIFTY THOUSAND DOLLARS.

(c) Any and all moneys or property now or hereafter in the hands of HIC belonging to the Borrower.

(d) The guarantee of Inmobiliaria Meliá, S. A., Basic Equities and Development Corp., Francisco Meliá and Pedro Fullana, referred to in item (b), paragraph 7 of Part D of this Agreement.

2. The Borrower does hereby:

(a) Grant to HIC the right, power and authority for and in the name, place and stead of the Borrower, to execute endorsements, assignments and other instruments of conveyance or transfer with respect to any and all securities pledged to HIC hereunder or otherwise held by HIC as security hereunder, provided, however, that such right, power and authority shall not be exercised by HIC while Borrower is not in default under this Agreement except incident to a pledge by HIC of one or more of the Notes, its rights under this Agreement or the securities pledged hereunder or otherwise held by HIC as security hereunder.

(b) Agree and consent that HIC shall have the right to repledge the Mortgage Notes and any other securities pledged to HIC hereunder or otherwise held by HIC as security hereunder.

(c) Covenant and agree that it will not, except with the prior written consent of HIC, pledge, mortgage or create any lien or charge in favor of anyone other than HIC, or sell, assign, transfer or grant any option with respect to, or otherwise dispose of or encumber the Mortgage Notes or other securities hereby pledged to HIC or otherwise held by HIC as security hereunder.

PART F - RELEASE OF SECURITY

1. HIC agrees that provided no default or event of default exists under this Agreement and in the event of sale and conveyance by the Borrower of any completed apartment, HIC will upon request of Borrower release the apartment from the lien of the Mortgage upon payment to HIC, for application

in reduction of the principal indebtedness evidenced by the Notes, of a sum equal to the sales proceeds of the apartment. However, HIC shall not be required to give any release at any time when a default or event of default shall exist hereunder. All deeds of liberation shall be prepared in form and substance satisfactory to HIC and its counsel and the Borrower shall pay or cause to be paid all expenses of the liberation and sale of the property and HIC shall not be required to bear any such expenses.

PART G - DEFAULTS AND REMEDIES

1. The Borrower shall be in default hereunder in either or any of the following events:

(a) Borrower shall fail to make payment of any principal or interest or other sums payable under this Agreement or any note, mortgage note or mortgage when such payment is due.

(b) The Borrower shall fail to perform, observe and carry out or shall breach, neglect or fail to perform any of the agreements, obligations, undertakings, covenants and warranties of the Borrower under this Agreement, any Note, the Mortgage Notes or the Mortgages or any of the Obligations.

(c) Any warranty, representation, statment, certificate, schedule or report made or submitted heretofore or hereafter to HIC by or on behalf of Borrower of the Guarantors shall be found to have been materially erroneous, false or untrue at the time of the making or submission thereof.

(d) Either or any of the Guarantors shall fail to comply with and perform all obligations, agreements, covenants and warranties contained in the Guarantee.

(e) The Borrower shall, without the prior written consent of HIC, create or record or permit to be created or recorded any mortgage (other than the mortgages) or similar encumbrance, even though the lien thereof be inferior to the lien of the Mortgages, upon any of the property at that time encumbered by the Mortgages.

(f) The Borrower or any of the Guarantors shall become insolvent or unable to pay its or his debts as they mature, or shall file a voluntary petition in bankruptcy or a voluntary petition seeking reorganization, or to effect a plan or other arrangement with creditors, or shall file an answer consenting to or take any other action

indicating acquiescence in an involuntary petition, pursuant to any bankruptcy, reorganization or insolvency law or any jurisdiction, or shall be adjudged a bankrupt or insolvent by any court of competent jurisdiction, or shall make an assignment for the benefit of creditors or to an agent (authorized to liquidate any substantial amount of its assets) or shall apply for or consent to the appointment of any receiver or trustee for it for a substantial part of its or his property.

(g) An order shall be entered and shall not be dismissed or stayed within 45 days from its entry pursuant to or purporting to be pursuant to any bankruptcy, reorganization or insolvency law of any jurisdiction approving an involuntary petition seeking reorganization, of or to effect a plan or other arrangement with creditors of, the Borrower or any of the Guarantors, or appointing any receiver or trustee for the Borrower or any of the Guarantors or for a substantial part of the property of the Borrower or any of the Guarantors.

2. At any time when Borrower shall be in default HIC shall have the right to decline to make any loan or to perform or carry out any of its other agreements or undertakings under this Agreement.

3. In the event Borrower shall fail to cure any default involving the payment of money and if such failure shall continue for a period of 10 days after the payment become due or if any other default of the Borrower shall continue for a period of 30 days after written notice of the default shall have been given to the Borrower by HIC then and in either or any such event HIC shall have the right to terminate all obligations on the part of HIC to make any further loans hereunder and to perform or carry out any of its other agreements or undertakings under this Agreement and HIC shall have the right to demand immediate payment of all sums payable to HIC (whether or not same shall already be due and payable) under this Agreement, any and all Notes then outstanding and unpaid, the Mortgage Notes, the Mortgages and any other securities held by HIC, and upon the giving of notice of such demand all such sums shall become immediately due and payable without further notice or demand of any kind.

4. Upon any default of the Borrower HIC may enforce or protect its rights in any manner provided by law, in this Agreement or in the Notes, Mortgage Notes, Mortgages or other securities held by it.

5. Borrower agrees and promises to pay costs, expenses and attorney's fees in the amount specified in the mortgage in connection with the collection of any sums payable to HIC by Borrower, or the enforcement of any of the obligations, in

connection with the enforcement of the obligations of the Guarantors under the Guarantee and in connection with the enforcement of any security for obligations of Borrower hereunder and obligations of Guarantors under the Guarantee. EV 136

PART H - MISCELLANEOUS

1. The Borrower shall deposit all down payments received from purchasers of apartment units in the Project with HIC and does hereby agree that HIC deposit said amounts in escrow with a Bank under the provisions of an escrow agreement which terms shall be satisfactory to the Bank and HIC.

2. It is hereby further agreed as follows:

(a) HIC, through its employees, engineers or other agents as it may select, shall have the right at all times and from time to time to inspect the property encumbered by the Mortgage. Supervising engineer's fees and expenses will be paid by the Borrower.

(b) Borrower agrees to pay and save HIC harmless against any liability for the payment of:

(1) All expenses and costs on account of registration and recording fees, notarial fees, revenue stamps and taxes and similar charges to be paid in connection with the construction loans and releases therefrom (including the security documents, releases, subordinations and promissory notes), and the cost of title insurance coverage, survey and reasonable attorney's fees to be paid to José Manuel Calderón Cerecedo in connection with the transaction specified in this contract, to wit: Loan, Mortgage, releases of same and deeds of sale and mortgage of individual apartments, shall be paid for by the Borrower.

(2) All notarial fees, fees for protocolization of instruments, filing and recording charges in connection with transactions contemplated by this Agreement (including transactions involving the filing, recording, cancellation, acknowledgement

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of satisfaction, libdration, release, subordination or discharge of mortgage or any other instruments) and all stamp and other taxes, including any interest and penalties thereon which may be payable in connection with any of such transactions and all expenses (including cost of title insurance) of performance and compliance by the Borrower with the terms hereof.

(3) All out of pocket expenses and disbursements of HIC arising in connection with this transaction, including fees and expenses of counsel for HIC.

(c) To the end that the agreements of the Borrower contained herein shall be effectively and fully performed and the intent and purpose of this Agreement fulfilled, Borrower agrees to execute all such other and further instruments and take action as may reasonably be required by HIC from time to time in order to carry out the provisions of this agreement or for the purpose of protecting, maintaining or enforcing the interest of HIC in the security pledged hereunder.

(d) No course of dealing or delay or omission on the part of HIC in exercising any of its rights or remedies under this Agreement shall impair or be prejudicial to the rights of HIC hereunder and the enforcement hereof. HIC may extend or postpone the time of payment and performance of any of the Obligations, release, partially or wholly, any security held by its pursuant hereto and release, wholly or partially, any person or party primarily or secondarily liable with respect to the Obligations, all without notice to or consent by the Borrower and without thereby releasing or diminishing its rights and remedies against the Borrower or security not specifically released.

(e) If Borrower defaults in any of its Obligations, then HIC shall have the right, but not any obligation, to perform, cure, or rectify same and Borrower agrees and promises to pay all expenditures made and costs or expenses incurred by HIC, including reasonable attorney's fees, in performing, curing or rectifying such defaults, which expenditures, costs and expenses shall be repayable by Borrower immediately upon demand by HIC.

(f) It is agreed and understood that if HIC, by reason of any of its undertakings or appearance under this contract should be made a defendant or co-defendant in any action brought against the Borrower and HIC should have to appear in or defending any such action, then Borrower undertakes that he will reimburse HIC for any of its reasonable expenses, attorneys' fees and costs in defending said action, and will hold HIC free and harmless from and of any judgment in said action and against any and all liabilities in connection therewith.

(g) All representations, warranties, covenants, agreements and other Obligations of the Borrower herein shall survive the making of any and all loans hereunder and the execution and delivery of the Notes and all Obligations shall also survive the payment of the Notes.

(h) All notices, demands, statements or requests contemplated hereby or given in connection herewith shall be duly given if in writing and when mailed by United States registered or certified mail (and by air mail unless mailed in Puerto Rico to an address in Puerto Rico) to the party to which it is directed, addressed as follows:

(1) If to Borrower, Ponce de León Avenue #1610 Santurce, Puerto Rico 00909

(2) If to HIC, at G. P. O. Box 4266, San Juan, Puerto Rico 00936 or at such other address as HIC shall last have furnished to Borrower by notice duly given hereunder.

(i) This Agreement shall be binding upon and inure to the benefit of HIC and the Borrower and their respective legal representatives, successors and assigns.

(j) This Agreement is being executed in several counterparts, each of which shall be considered an original. This Agreement shall be deemed a contract under and shall be governed by and construed in accordance with the laws of the Commownealth of Puerto Rico.

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(k) This Agreement and the Guaranty referred to herewith supersedes all other previous agreements or guarantees executed by the parties referred to in the before-mentioned agreement and guaranty relative to this loan.

IN WITNESS WHEREOF, the parties have executed this Agreement by their respective duly authorized officers under their respective seals, all on the day and year first above written.

INMOBILIARIA MELIA DE PUERTO RICO, INC.

By: _____

HOUSING INVESTMENT CORPORATION

By: _____

By: _____

Affidavit No. 10,130

Sworn and subscribed to before me by Pedro Fullana, of legal age, married, property owner and resident of San Juan, Puerto Rico, in his capacity of Executive Vice-President of Inmobiliaria Melia de Puerto Rico, Inc., and Francisco Román and Manuel Jiménez, both of legal age, married, property owners and residents of Río Piedras, Puerto Rico, in their respective capacities of Vice-President and Assistant Secretary of Housing Investment Corporation, to me personally known at San Juan, Puerto Rico, this 31st. day of October, 1972.

JOSE M. CALDERON CONESA ABOGADO NOTARIO Isla de Puerto Rico

NOTARY PUBLIC

BEST COPY AVAILABLE

EXHIBIT "A"

Land	$ 2,000,000
Architect (final payment)	100,000
Loan Fee	712,000
Other items to be mutually agreed, to be supplied later totalling a sum not in excess of	15,000,000
	$17,812,000

EXHIBIT "B"

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PROMISSORY NOTE

$_____ San Juan, Puerto Rico

_____, 19__

FOR VALUE RECEIVED,

a Puerto Rico Corporation, promises to pay to the order of HOUSING INVESTMENT CORPORATION, a corporation, on demand, the principal sum of

and to pay interest on the balance of such principal sum remaining unpaid from time to time from the date hereof until maturity at the rate of per cent (%) per annum (computed on the basis of a year of 360 days), said interest being payable, without demand, monthly on the first day of each and every month following the date of this note until maturity, to pay interest accrued to the date of maturity on that date and to pay interest on unpaid principal after maturity at the rate of per cent (%) per annum, payable monthly as aforesaid, or, at the option of the holder hereof, on demand. Upon the date of full payment or prepayment of principal all interest accrued through that date shall be paid on that date. Both principal and interest shall be payable in lawful money of the United States of America at

or at such other place as may be designated by notice given to the maker by the holder hereof.

Presentment, protest, notice of dishonor and notice of protest are hereby waived by all parties now or hereafter liable hereon, whether as maker, endorser, guarantor or otherwise.

This note is one of a series of notes issued pursuant to and entitled to the benefits and securities provided for by a Loan and Pledge Agreement between the maker and the payee dated as of 19 . This note is subject to prepayment and acceleration as provided in said Loan and Pledge Agreement.

The maker also promises and agrees to pay the costs, expenses and attorney's fees in the amount specified in the Mortgage Note pledged as security for this note in connection with the collection of this note or the enforcement of any obligation set forth herein or of any security therefor.

Any notice or demand required or desired to be given in connection with this note or the indebtedness evidenced hereby shall be deemed duly given in the manner provided in said Loan and Pledge Agreement for the giving of notices thereunder.

(Corporate Seal)

By:_____

Title_____

Affidavit Number:_____

Sworn to and subscribed to before me by

personally known to me, acting in his capacity as

of

this day of 19 .

_____

NOTARY PUBLIC

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EXHIBIT "C"

SCHEDULE OF CONSTRUCTION LOAN DISBURSEMENTS

(To be supplied later by mutual accord)

EXHIBIT "D"

LOAN APPLICATION

(Pursuant to Loan and Pledge Agreement between and HOUSING INVESTMENT CORPORATION dated as of , 19)

To: Housing Investment Corporation and its successors and assigns

Application No._____

Application Date

(Borrower hereby requests loan advance pursuant to the Loan and Pledge Agreement referred to above (the Agreement) as follows:

Value of work completed and in place cumulative (itemized on engineer's certificate attached) $_____

Less

Retainages not now payable: $_____

Prior disbursements _____

Total Deductions _____

Total amount now requested as advanced for land improvements $_____

Borrower hereby certifies as follows:

1. As of the date of this application and as of the date on which the requested loan will be disbursed no event of default exists under the Agreement, the Mortgage Note or the Mortgage and all representations and warranties of the Borrower set forth in the Agreement and all representations and warranties of the Guarantors as set forth in the Guarantee remain true and correct with the same effect as though such representations and warranties had been made on such dates except insofar as such representations and warranties are affected by transactions contemplated by the Agreement. The loan hereby requested does not exceed in amount the loan to which the Borrower is now entitled under the provisions of said Loan and Pledge Agreement and covers amounts which at the date of this application have been expended and/or are justly due and owing by the Borrower on account of the Cost of Construction of the Project and no part of the expenditures or obligations to be paid or provided for by the loan advance hereby requested has been included in the amount of any other loan made to the Borrower under the Agreement.

2. The proceeds of all loans made to the Borrower under this Agreement have been applied to the payment or repayment of the Cost of Construction of the Project and for no other purposes and the proceeds of the loan for which application is hereby made will be so applied. The expenditures or obligations in respect of which the proceeds of the loan requested by this application are proper parts of the Cost of Construction.

3. The contents of this application and of all certificates and schedules submitted herewith or otherwise in connection with the requested loan are true and correct.

All terms used in this application which are defined in the Agreement are used herein as defined in such Agreement.

By:_____

Title_____

Note: All loan applications and all certificates, schedules or other documents required to be submitted to HIC under the terms of the Agreement are to be submitted in triplicate.

EXHIBIT "D"

Housing Investment Corporation
470 Ponce de León Avenue
Hato Rey, Puerto Rico

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Gentlemen:

In order to induce you, from time to time, at your option, to make loans or advances to, or at the request of Inmobiliaria Melia de Puerto Rico, Inc. (a corporation organized under the laws of the Commonwealth of Puerto Rico, with principal offices in San Juan, Puerto Rico--------, hereinafter called the "borrower"), or to discount notes, bills of exchange, acceptances, checks or any other instruments of evidence of indebtedness (all of which are hereinafter designated "instruments") on which the borrower is or may be liable as maker, endorser, acceptor or otherwise, and to make loans or advances on the basis of any such instrument as security, or to extend credit in any other manner to the borrower, with or without security, the undersigned and each of them hereby guarantee jointly and severally with the borrower, prompt payment at maturity to you, your successors or assigns, of each and every such loan, advance, credit and other obligation hereinabove referred to and also of any other debt, of any nature, which the borrower may now or hereafter owe you, including each and all the instruments above mentioned (whether issued before or after this date) in which you now have or may in the future have or acquire any interest, whether beneficial or security or otherwise, together with any and all expenses in which you may incur in the collection of all or part of any such debt, or to make effective any right herein created, provided however that the several liability of each of the parties subscribing this guarantee shall at no time exceed the sum of $17,812,000.00 in lawful currency of the United States, whatever may be the medium in which the obligation hereby guaranteed may be payable, plus interest which may accrue, whether before or after maturity, on the said obligation, plus costs, expenses and attorneys fees incurred by you. And all of the undersigned hereby waive notice of acceptance of this guarantee, as well as presentment, demand, protest and notices of nonacceptance or nonpayment of each and every such instrument hereinabove referred to, and they likewise waive demand, and notice of non-payment on each and every such loan, advance, credit or other obligations above referred to, and further waive any right to demand that judicial action be taken against any person who may be a party to said instruments, or who may be liable thereon, and further waive any notice or demand to the undersigned under this document, as also the right to plead the statute of limitation on said obligations.

And the undersigned hereby consent and agree that you may at any time or from time to time at your discretion:

1.- Extend or change the maturity, or the manner, place or condition of payment of any and all of said instruments, loans, advances, credits and other obligations or of any part or parts thereof, or of any renewal or renewals thereof;

2.- Substitute, release or deliver all or part of the collateral security of any part or parts thereof (regardless of who supplied it) which you may have, or may acquire in the future, in connection with this guarantee, or with any or all of the instruments, loans, advances, credits and other obligations hereinabove referred to;

3.- Sell or purchase all or any part of the said collateral security at private, public or notarial sale, or at any broker's board, and after deducting the costs, attorneys fees and expenses of any sort incurred in the collection sale and delivery of such collateral, the products of the said sale or sales may be applied by you to any obligation or obligations of the borrower, the payment of which is guaranteed by the undersigned, or of any other debt or liability of the several undersigned to you;

4.- To effect settlements of arrangements with the borrower or with any other person or persons liable thereon, with respect to any or all such instruments, loans, advances, credits or other obligations, the payment whereof the undersigned guarantee by this document, or to subordinate payment of the same or of any part thereof to the payment

of any other debt or claim which may at any time be due to you or to any other person; all in the form and according to the terms that you may deem convenient, without further notice or consent of any of the undersigned, all of whom hereby agree to be and to continue liable under this guarantee, independently of the existence, value or status of any collateral, and notwithstanding any substitution, alteration, settlement, agreement, delivery, release, sale application, renewal or extension, and notwithstanding that all of the obligations of the borrower to you which may be outstanding and unpaid at any time may exceed the limit fixed in this guarantee.

And you are hereby authorized at your option to apply to any debt or liability of the undersigned to you now or hereafter existing any moneys or other property, or the proceeds thereof which may now or in the future be deposited with you, or left with you by any of the undersigned or for their account, or to be credited to any of the undersigned, or in which any of the undersigned may have any interest. All items and assets shall be considered as left with you as soon as they shall have been placed in transit to you by mail or by messenger.

No delay on your part, or that of your successors or assignees, in exercising or requiring compliance with any right or obligation under this document, or in taking any action to collect or exercise any right to the debts or obligations hereby guaranteed, shall be construed as a waiver of any such rights, liens or obligations, nor shall it prejudice your rights under this document; insofar as the undersigned are concerned.

In case of the insolvency or bankruptcy of the borrower or of any of the undersigned or in case that a petition in bankruptcy, or for the appointment of the receiver be filed in any court by the borrower, or against it, or by any of the undersigned or against them, or the attachment of any assets of any of them be decreed, then all instruments, loans, advances, credits and other obligations above referred to shall be considered, for the purposes of this guarantee, immediately due and payable, and the liability of each of the undersigned shall be demandable, all without demand or notice.

This is a continuing guarantee given in order to induce you to enter into, and make loans under a certain Pledge Agreement---------- bearing even date herewith between you and Inmobiliaria Melfá de Puerto Rico, Inc. for the financing of the construction of a housing project in Carolina---------, Puerto Rico, and this guarantee will not be revoked by the undersigned until such time as the above-mentioned Pledge Agreement----------, (as the same may be amended from time to time, which amendments may be made without the consent of or notice to the undersigned) and all terms thereof shall have been fully complied with by all parties and the housing project contemplated thereby shall have been fully completed. No act or omission on your part, of whatever nature, shall affect or prejudice this guarantee under any circumstance, nor will the same be affected by reason of any change that may arise by reason of the death of any partner or partners of the undersigned, of the borrower, or by the advent of one or more new partners provided that until all of the obligations of the borrower to you shall have been paid (notwithstanding that said unpaid obligations may at any time exceed the limit of this guarantee) the undersigned agree that none of them, directly or through their respective agents, executors, administrators, successors in interest or assignees, shall exercise against the borrower the rights allowed them by Section 1742 of the Civil Code of Puerto Rico, 1930 edition, nor shall they exercise against you or the debtors, in any manner, any right of subrogation which the undersigned or any of them may have, nor will they diminish or impair in any manner your rights against the debtor, as long as you shall not have been fully paid for the debts and obligations guaranteed by this document.

You may assign this instrument or any of its rights and powers hereunder, with all or any of the obligations hereby guaranteed, and may assign and/or deliver to any such assignee any of the security in your hands under the terms hereof, and in the event of such rights and powers and of such security (if any such security be so assigned or delivered)

shall have the same rights and remedies as if originally named herein in your place. This agreement shall inure to the benefit of and be enforceable by you and your successors and assigns and shall be binding upon each of the undersigned and the heirs, legal representatives, successors and assigns of each of the undersigned. Without limiting the generality of the foregoing, the undersigned specifically consent to the assignment by you of any and all your rights and interest under this instrument and any and all of your rights and interest in and to any securities held by it under the terms hereof to any financial institution providing financing to you in connection with the transactions contemplated herein.

If this guarantee is signed by more than one person, it will be the joint and several obligations of each and every one of said persons, as among themselves and with the borrower, and it will not be considered revoked or impaired as to any of them by the death of any or of all said persons, or by the revocation or release of any obligation to which this document may refer, by or against any or all of said persons.

Anything herein to the contrary notwithstanding, guarantor shall not be liable in any event under this Guaranty for the payment of interest on the outstanding principal amount at a rate of interest higher than the permitted maximum interest rate chargeable under the laws of the Commonwealth of Puerto Rico.

Executed at San Juan, Puerto Rico, this 31st day of October, 1972.

BASIC EQUITIES AND DEVELOPMENT CORP.

By: _____

_____

PEDRO FULLANA

_____

_____

AFFIDAVIT NO. 10,134

Sworn and subscribed to before me by José M. Alvarez de Choudens, of legal age, married, property owner and resident of San Juan, P.R., in his capacity of Vice-President of Basic Equities and Development Corp., and Pedro Fullana, of legal age, married, property owner and resident of Santurce, P.R., to me personally known at San Juan, P.R., this 31st. day of October, 1972.

JOSE M. ARCEDO NOTARIO Isla de Puerto Rico

_____

NOTARY PUBLIC

EV 149

PAINE
WEBBER
JACKSON
& CURTIS
INCORPORATED

Established 1879 Members New York Stock Exchange, Inc. and other Principal Exchanges
140 Broadway, New York, N.Y. 10005 (212) 437-2121

May 12, 1972

EXHIBIT P&O
EXHIBIT IN EVID.
FEB 28 1973
C. I. METZ, C. S. R.

Mr. Pedro Fullana
Fidelity Bond & Mortgage Co. of
Puerto Rico, Inc.
1610 Ponce de Leon Avenue
Santurce, Puerto Rico

Dear Pedro:

Since I am not certain of my schedule next week, I am sending a corrected memorandum to you, which now incorporates the various conditions and changes that we discussed yesterday in San Juan.

I am most concerned that after having put tremendous pressure on FMI to process this application in preference to many others that they had before us, we are now delaying a second week in a row in completing their formal application and processing.

As an old hand in the mortgage business, you can appreciate, Pedro, that the lenders start getting an uneasy feeling that their offer is being shopped when such unaccountable delays occur. This, as you know, starts to cool them towards the project under consideration, and they begin to look elsewhere to put out the $19.0 million that they have mentally reserved for our project.

I don't really understand Mr. Cohen's reason for not giving us an answer, either yes or no, since there is no further room for negotiating with the Trust, and I am sure that you were able to give him a complete explanation of the many advantages and pluses that are inherent in the FMI offer. We simply cannot close our eyes to the fact that in buying or financing real estate we must look at what we are getting in conjunction with what we are being asked to pay.

In this instance we are getting top dollar, and possibly even $1.0 million more than originally applied for. We are getting the flexibility of moving immediately into construction without any holdback--achievement provision, or pre-sales requirements. We both know that there is no better way to sell a condominium project than be able to show the prospective purchaser that construction is proceeding on the site.

We have the further advantage here of your ability to float downward with prime rate in the event interest rates should drop over the next three years--and finally you have the advantage of having the Lender's Fees incorporated in the construction loan, and not having to be paid out-of-pocket.

Please believe me when I tell you that this has been an exceedlingly difficult loan to make, one that has been around for well over a year and is quite well known to the majority of lenders who are capable of making a loan of this size, and who are qualified or interested in Puerto Rico. We have exhausted the list of logical lenders, and although I can get you many commitments with seemingly more favorable terms and conditions, they would have to be for $2.0 million less in amount, with pre-sales provisions ranging from 25 to 40%, plus the personal guarantees of the Cohen's and of International Stretch, etc. This would be easy, but I am certain that it would not fit your needs.

I, therefore, urge you to impress upon your partners the fact that we have a major trust with the capability of handling a loan of this size by itself, with a deep interest in Puerto Rican lending, and with much of the preliminary work already accomplished and favorably considered. Before they lose interest and possibly recall their offer, I would suggest that we all get together and come to a definite conclusion.

As always, I look forward to the opportunity of being of service to you and your partners.

Best personal regards,

Sincerely,

Leonard Wilkes

LW:sn

cc: Mr. Jack H. Berger

PAINE
WEBBER
JACKSON
& CURTIS
INCORPORATED

Established 1879 Members New York Stock Exchange, Inc. and other Principal Exchanges
140 Broadway, New York, N.Y. 10005 (212) 437-2121

EV 151

May 12, 1972

Mr. Pedro Fullana
Fidelity Bond & Mortgage Co. of
Puerto Rico, Inc.
1610 Ponce de Leon Avenue
Santurce, Puerto Rico.

Re: Melia Apartotel Hotel
Isla Verde, Puerto

Dear Pedro:

I am happy to advise that we have received preliminary approval for the Standby and Construction Loan financing of the proposed Melia Apartotel Hotel to be built in the metropolitan San Juan area of Puerto Rico.

First Mortgage Investors Trust will take an application to present the following proposal to their committee for Trustee approval:

a)	Loan Amount:	$19.0 million, but no less than $18.0 million, from which funding the existing land loans will be prepaid or assumed
b)	Interest Rate:	4 1/2% over prime, floating upward or downward
c)	Term of Loan:	60 months, including a construction period of 24 months, plus two 6 months extension options if necessary, at a standby fee of 1/2% per extension
d)	Amortization:	1% per annum, only if the loan is kept on beyond the maximum construction period of 36 months
e)	Lenders Fees:	Will amount to a total of 4%, including the standby fees, drawing fees, origination fees, legal fees, etc., including any loan servicing fees or charges

It is understood that because of the Puerto Rico tax situation this loan will be originated and serviced for First Mortgage Investors by the Berens Mortgage Bankers, Inc. of San Juan, and that all the loan fees described above will be collected by Berens on behalf of the participants in this loan.

I call your attention to the fact that the Trust will be making a top loan at $18.0 to $19.0 million and that there is no hold-back provision, so that the full amount of the commitment will be funded without any pre-sales or pre-rental conditions. Please note also that the interest rate quoted will float in either direction, without a pegged minimum, which will give you the advantage of any lowering of construction rates over the term of the commitment.

Finally, I call your attention to the fact that all fees quoted above will be payable from the proceeds of the construction advances, so that you will not be required to come up with these fees as front money out of pocket.

If these initial terms and conditions are acceptable to you and your partners, would you please acknowledge this fact in the space provided below and return to my attention as soon as possible so that we can schedule a meeting with the Trust shortly thereafter. This will serve to amend our authorization dated March 24, 1972 to the terms and conditions described above, and will further serve to extend that authorization for the time required to process formally through the FMI Trustee Committee approval, but no later than 30 days from the receipt of your acknowledgement.

Now that the time consuming presentation work and negotiation has been concluded, I look forward to a fast approval and closing so that you can start construction without further delay.

Sincerely,

Leonard Wilkes

Acknowledged and Accepted:

INMOBILIARIA MELIA DE PUERTO RICO INC.

By:_____

Date:_____

cc: Mr. Jack H. Berger
Melia Real Estate Development

PAINE
WEBBER
JACKSON
& CURTIS
INCORPORATED

Established 1879 Members New York Stock Exchange, Inc. and other Principal Exchanges
140 Broadway, New York, N.Y. 10005 (212) 437-2121

EXHIBIT NO.
FEB 1973
EV 153
G. L. ARITZ, C. S. R.

May 22, 1972

Mr. Martin Cohen
c/o International Stretch Products, Inc.
1133 Avenue of the Americas
New York, New York

Re: Melia Apartotel
Isla Verde, Puerto Rico

Dear Marty:

In the interest of saving time and possibly preserving the quotation we already have from First Mortgage Investors, we are prepared to continue processing our application through for Trustee approval on the basis of eliminating Basic Equities from the guarantors.

As you know, First Mortgage Investors Trust has offered to take the following proposal to their committee for Trustee approval:

a) Loan Amount: $19.0 million, but no less than $18.0 million, from which funding the existing land loans will be prepaid or assumed

b) Interest Rate: 4 1/2% over prime, floating upward or downward

c) Term of Loan: 60 months, including a construction period of 24 months, plus two 6 months extension options if necessary, at a standby fee of 1/2% per extension

d) Amortization: 1% per annum, only if the loan is kept on beyond the maximum construction period of 36 months

.../...

e) Lenders Fees: Will amount to a total of 4%, including the standby fees, (drawing fees, origination fees, legal fees, etc.,) including any loan servicing fees or charges

f) Guarantors: The loan will be guaranteed by Jose Melia, Sr., and Mr. Pedro Fullana, with Basic Equities-Marles Equities released from any such guarantee.

It is understood that because of the Puerto Rico tax situation this loan will be originated and serviced for First Mortgage Investors by the Berens Mortgage Bankers, Inc. of San Juan, and that all the loan fees described above will be collected by Berens on behalf of the participants in this loan.

If these initial terms and conditions are acceptable to you and your partners, would you please acknowledge this fact in the space provided below and return to my attention as soon as possible so that we can schedule a meeting with the Trust shortly thereafter. This will serve to amend our authorization dated March 24, 1972 to the terms and conditions described above, and will further serve to extend that authorization for the time required to process formally through the FMI Trustee Committee approval, but no later than 30 days from the receipt of your acknowledgement.

Now that the time consuming presentation work and negotiation has been concluded, I look forward to a fast approval and closing so that you can start construction without further delay.

Sincerely

Leonard Wilkes

Leonard Wilkes

ACKNOWLEDGED & ACCEPTED

INMOBILIRIA MELIA DE PUERTO RICO, INC.

BY: _____

DATE: _____

cc: Jack H. Berger
cc: Pedro Fullana

EV 155

PAINE, WEBBER, JACKSON & CURTIS

INCORPORATED

MEMBERS
PRINCIPAL STOCK AND
COMMODITY EXCHANGES
ESTABLISHED 1879

140 BROADWAY
NEW YORK, N. Y. 10005

TELEPHONE
(212) 437-2121
CABLE-PAINWEB, N. Y.

June 7, 1972

Inmobiliaria Melia de Puerto Rico, Inc.
GPO Box 1805
San Juan, Puerto Rico 00936

Re: Melia Apartotel
Isla Verde, Puerto Rico

Gentlemen:

Enclosed herewith please find three checks totaling $50,000 representing the Good Faith Deposits originally issued to Paine, Webber, Jackson & Curtis under authorization dated March 24, 1972.

In exchange, you are to issue a check in the amount of $50,000 to the Lender, representing their required Good Faith Deposit with their formal application.

This in no way changes any other of the terms and conditions of the Paine, Webber, Jackson & Curtis application dated March 24, as amended and extended on May 22, 1972, particularly paragraph 9(b) which recites our brokerage fee and the fact that it is to be deemed earned and payable at the time of final approval of the lender's commitment.

Would you please indicate your acknowledgement and authorization in the space provided below.

Sincerely

Leonard Wilkes

Leonard Wilkes, Director
National Mortgage Department

ACKNOWLEDGED & AGREED

BY: _____

DATE: _____

LW/je
Encl.

EXHIBIT NO.
DEPOSITION OF EVID.
FEB 1973
O. L. METZ, C. S. R.

PAINE, WEBBER, JACKSON CURTIS
INCORPORATED
Members Principal Stock and Commodity Exchanges Established 1879

A 66439 1-12/210

25 Broad Street, New York, N.Y. 10004

This check is not negotiable after 180 days from date issued EV 156

PAY TO THE ORDER OF

DATE: JUN 07 72

BASIC EQUITIES AND DEVELOPMENT CORP

AMOUNT: *25000.00 **

PAINE, WEBBER, JACKSON & CURTIS INCORPORATED

CHEMICAL BANK
20 Pine Street
New York, N.Y. 10015

⑆0210⑈0012⑆ 066⑈0045351⑈

PAINE, WEBBER, JACKSON & CURTIS
INCORPORATED
Members Principal Stock and Commodity Exchanges Established 1879

A 66438 1-12/210

25 Broad Street, New York, N.Y. 10004

This check is not negotiable after 180 days from date issued

PAY TO THE ORDER OF

DATE: JUN 07 72

APARTOTEL MANAGEMENT CORP

AMOUNT: *18748.75 **

PAINE, WEBBER, JACKSON & CURTIS INCORPORATED

CHEMICAL BANK
20 Pine Street
New York, N.Y. 10015

⑆0210⑈0012⑆ 066⑈0045351⑈

PAINE, WEBBER, JACKSON & CURTIS
INCORPORATED
Members Principal Stock and Commodity Exchanges Established 1879

A 66437 1-12/210

25 Broad Street, New York, N.Y. 10004

This check is not negotiable after 180 days from date issued

PAY TO THE ORDER OF

DATE: JUN 07 72

FIDELITY BOND AND MORTGAGE CO OF PUERTO RICO INC

AMOUNT: **6251.25 **

PAINE, WEBBER, JACKSON & CURTIS INCORPORATED

CHEMICAL BANK
20 Pine Street
New York, N.Y. 10015

⑆0210⑈0012⑆ 066⑈0045351⑈

THE Melia GROUP
MADRID, SPAIN
DIVISIONS: HOTELS
REAL ESTATE DEVELOPMENT

U. S. RESIDENT FINANCIAL OFFICE
30 EAST 42ND STREET
NEW YORK, N. Y. 10017
TEL.: (212) 661-4814

EV 157

FEB 1973

Mr. Leonard Wilkes, Director
(National Mortgage Dept.)
Paine Webber Jackson & Curtis, Inc.
140 Broadway
New York, N. Y. 10005

June 7, 1972

Dear Leonard:

I am in receipt of your letter dated June 7th and have taken careful note of the contents.

Rest assured that neither Mr. Fullana nor the undersigned has at any time accused nor even thought of any possible misrepresentation or deviousness on your or your firm's part. We think too highly of both.

I sincerely hope that the FMI deal goes through and that it will prove to be the forerunner of additional business together.

With kind personal regards,

Sincerely,

Jack H. Berger

JHB/de
cc: Pedro Fullana
Martin Cohen

EXHIBIT P-219
REPORT NO. D-12
FEB 28 1973
G. L. MILLS, C. S. R.

EV 158

June 7, 1972

Mr. Jack Berger,
Executive V.P. - Finance
The Melia Group
30 E. 42nd Street
15th Floor
New York, New York

Dear Jack:

The last thing in the world that I, or my department, or my firm wish to be accused of, or even subliminally thought of, is misrepresentation or deviousness in any form.

As a consequence, we take great pains to go over each and every item of our application with our clients, particularly the items concerning fees and deposits, since these are the ones that hurt the most.

I am sure that you recall my meeting with both you and Pedro in your office the day you signed our Application for Commitment (March 24, 1972) at which time we went over the application item by item after having acceded to a number of changes requested by you and Pedro.

Please note in Item 8(d) on Page 2, a provision whereby the borrower agrees to execute the lender formal application and to put up any necessary good faith deposits required by the lending institution. This of course is the point that we are now at, and which apparently is causing some confusion, although you had clearly agreed to it at the time.

In Item 9 of our application we spell out the terms of our fee arrangement and the Good Faith Deposit to Paine, Webber, Jackson & Curtis. This is clearly indicated as a refundable deposit to Paine, Webber, later to be applied to our earned commission on approval of the commitment. Nowhere in either section is there any language or indication that the two deposits are related or interchangeable, or that our Paine, Webber deposit was to be applied to the lender's deposit.

.../...

Please note also that wherever we discussed "Good Faith Deposits" we did so in bold capital letters so that there be no missing these important provisions. The fact that Pedro has never paid a Good Faith Deposit to a broker in no way really changes the facts, nor the intent of the application. I can assure you that the great majority of the major league mortgage banking and brokerage firms insist upon a Good Faith Deposit to themselves before taking on any case, and certainly before taking on a case of this magnitude and of this degree of difficulty. As a matter of fact Sonnenblick-Goldman would have required a 1% Good Faith Deposit, while I accepted only a fraction of that amount.

Be that as it may however, my concern now is the approval of our application by FMI and a quick closing and funding of the loan. Even before you advised me of Pedro's reaction and I had already determined to use our deposit to satisfy FMI and requested our accounting department to draw the check for me yesterday.

I regret the misunderstanding and sincerely hope that after you and Pedro have had an opportunity to review the facts as presented above, that you will understand my position as well, and will appreciate the fact that my agreeing to act contrary to the signed authorization will cause me some embarrassment with my firm.

In view of this however, it is most important that there be no further confusion regarding payment of our fee, which will be earned and payable at the time of final commitment approval as spelled out in Item 9(b) of our authorization.

Sincerely

Leonard Wilkes, Director
National Mortgage Department

LW/je
Encl.
cc: Pedro Fullana

E. 160

PAINE
WEBBER
JACKSON
& CURTIS
INCORPORATED

Established 1879 Members New York Stock Exchange, Inc. and other Principal Exchanges
140 Broadway, New York, N.Y. 10005 (212) 437-2121

June 26, 1972

Inmobiliaria Melia de Puerto Rico, Inc.
Pan American Building
Hato Rey, Puerto Rico

Re: Melia Apartotel
Isla Verde, Puerto Rico

Gentlemen:

In accordance with your instructions, we are proceeding with the formal application to First Mortgage Investors through the Berens Mortgage Bankers, Inc. of San Juan, on the following basis:

Loan Amount	:	$19.0 Million
Interest Rate	:	4½% over prime floating
Loan Term	:	24 months plus two six-month extensions.
Lenders Fees	:	4.0% total, including standby fees, origination fees, drawing fees, and lenders attorney fees. Any extension in term described above will be at the cost of ½% per each six-month extension.
Loan Guarantees	:	The loan will be guaranteed by a lien on the subject property, by the stock of applicant corporation, and by $1.5 million of irrevocable U.S. bank letter of credit, to run for the same term as the construction loan.

2467
DOCUMENT NO.
FEB 28 1973
C. S. R.

.../...

In the interest of expediency, we have returned to the various makers, the $50,000 Good Faith Deposit originally tendered to Paine, Webber under the terms of our Application for Commitment dated March 24, 1972. This is to be exchanged for a check in the amount of $50,000 drawn to the order of Berens Mortgage Bankers, Inc., representing the refundable Good Faith Deposit required by First Mortgage Investors with their formal Application for Commitment. Would you please indicate your authorization for us to return this escrowed amount to the respective parties in the space provided below.

This will further serve to revise your application for commitment dated March 24, 1972 and amended May 22, 1972 to the terms and conditions noted above, and extended for the time required for appropriate Trustee approval and delivery of the final commitment documents. In all other respects the terms and conditions of the authorizations dated March 24, 1972 and amended May 22, 1972 remain in full force and effect, and we draw your particular attention to Item 9(b) which recites the fact that our brokerage fee is deemed to be earned and becomes due and payable at the time of final approval of the loan commitment.

Now that we appear to have cleared the major hurdle that has held up processing of this application for almost a month, we are hopeful of going forward without any further delay.

Sincerely

Leonard Wilkes

Leonard Wilkes, Director
National Mortgage Department

LW/je

AGREED & ACCEPTED

INMOBILIARIA MELIA DE PUERTO RICO, INC.

BY: _____

DATE: July 5, 1972

INMOBILIARIA MELIA, DE P. R., INC.
G. P. O. BOX 1805
SAN JUAN, PUERTO RICO 00936

No. 77 EV 162

101-209

October 31 1972 215

PAY TO THE ORDER OF Juan J. Otero $ 50,000.00

THE SUM OF 50000 DOLS 00 CTS DOLLARS

INMOBILIARIA MELIA, DE P. R., INC.

BANCO DE PONCE

AVENIDA MUÑOZ RIVERA, PARADA 30
HATO REY, PUERTO RICO

⑆0215⑈0209⑆ 26⑈00494 6⑈ "000 5000000"

Payment on behalf of Juan J. Otero to complete liquidation of promissory mote which became due on 8/31/73 $20.000.00

INMOBILIARIA MELIA, DE P. R., INC.
G. P. O. BOX 1805
SAN JUAN, PUERTO RICO 00936

No. 229

101-209

Sept. 24 19 73 215

PAY TO THE ORDER OF BANCO DE PONCE $ 20,000.00

THE SUM OF 20000 DOLS 00 CTS DOLLARS

PAID
SEP 24 1973
BANCO DE PONCE
SAN JUAN, PUERTO RICO

INMOBILIARIA MELIA, DE P. R., INC.

BANCO DE PONCE

AVENIDA MUÑOZ RIVERA, PARADA 30
HATO REY, PUERTO RICO

⑆0215⑈0209⑆ 26⑈00494 6⑈ "000 2000000"

Payment against commission installment past due.

INMOBILIARIA MELIA, DE P. R., INC.
G. P. O. BOX 1805
SAN JUAN, PUERTO RICO 00936

No. 228

101-209

September 18, 19 73 215

PAY TO THE ORDER OF JUAN J. OTERO $ 20,000.00

THE SUM OF 20000 DOLS 00 CTS DOLLARS

PAID
SEP 21 1973
BANCO DE PONCE
SAN JUAN, PUERTO RICO

INMOBILIARIA MELIA, DE P. R., INC.

BANCO DE PONCE

AVENIDA MUÑOZ RIVERA, PARADA 30
HATO REY, PUERTO RICO

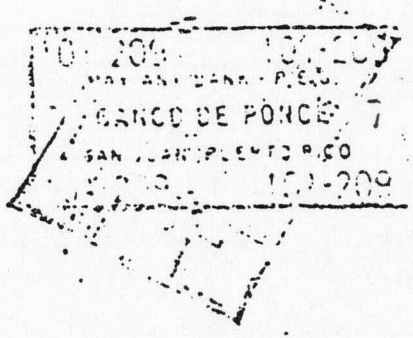
⑆0215⑈0209⑆ 26⑈00494 6⑈ "000 2000000"

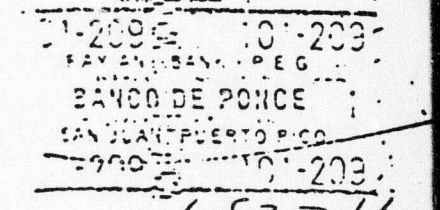
BEST COPY AVAILABLE

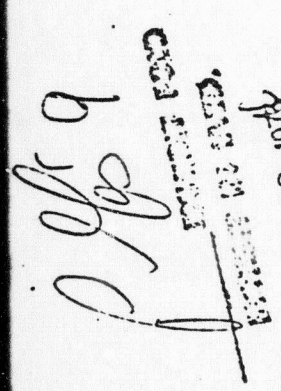
BEST COPY AVAILA

Pagado por Cheque de Gerente #26-722149 a favor de Juan J. Otero

EV 163







EV 164

FEB 28 1974

Inmobiliaria Melia de Puerto Rico, Inc.
Pan American Building
Hato Rey, Puerto Rico

July 5, 1972

Mr. Clyde Frame, President
Berens Mortgage Bankers
GPO Box 3529
San Juan, Puerto Rico 00936

Re: Melia Apartotel
Isla Verde, Puerto Rico

Gentlemen:

We enclose herewith our signed application for the standby and construction loan financing of the proposed Melia Apartotel to be built in Isla Verde.

We agree to all the terms and conditions described therein, but request a period of 120 days from the date of the approved commitment to come up with the necessary Letter of Credit or other guarantees satisfactory to the lender.

We agree that if we accept a commitment satisfactory in all other respects, but conditioned upon the aforementioned Letter of Credit or other satisfactory guarantees, that we will produce such instruments or guarantees within 120 days from the acceptance of the commitment, or forfeit our $50,000 Good Faith Deposit.

If this is agreeable, would you please resume processing our Application towards final Trustee approval.

Very truly yours

Martin Cohen, President
Inmobiliaria Melia de Puerto Rico, Inc.

EV 165

To: FNMAC Regional Vice President, Mr. Donnld Grey Date: _____

Our Company, Berens Mortgage Bankers, Inc. offers the following described Conventional Mortgage Loan to FIRST MORTGAGE INVESTORS (FMI):

LOAN NUMBER ASSIGNED BY FMI: _____

1. BORROWER: Name and Mailing Address of Borrower: Inmobiliaria Melia de P.R., Inc
Pan American Building, Hato Rey, Puerto Rico
ORGANIZATION OF BORROWER: (Check One) ☒ Corporation ☐ General Partnership ☐ Limited Partnership ☐ Trust ☐ Joint Venture ☐ Sole Owner

2. GUARANTORS: Name and Mailing Address of all Loan Guarantors and, if applicable, their wives: A $1.5 Million bank letter of credit, plus guarantee of Jose Melia and wife.
c/o Inmobiliaria Melia de P.R., Inc.
Pan American Building, Hato Rey, Puerto Rico

3. PROPERTY LOCATION: Address of Property: ISLA VERDE
City San Juan County _____ State Puerto Rico

4. REQUESTED LOAN AMOUNT: $ 19,000,000.00. The Loan to Value Ratio is 79.8 % of the Appraised Improved Value of the property which is $ 23,800,000.00.

5. REQUESTED LOAN TERMS: Interest Rate Prime +4 1/2 %; Loan Term 24 Months/~~XXXXX~~ Principal and Interest Payment Terms _____ Years.

6. REQUESTED REPAYMENT TERMS: Loan Pre-payment prohibited for _____ years; Pre-payment Penalty after closed period: _____

7. OTHER LOAN TERMS AND CONDITIONS: FMI Permanent Standby, 24 months 1 1/2%
Drawing Fees, Origination Fees, Legal Fees, etc. 2%
FMI Permanent Standby to include two 6 month extensions at a cost of ½% per extension.

8. ESTIMATED DATE CONSTRUCTION WORK TO BEGIN: _____
Estimated Completion Date: _____

9. PERMANENT MORTGAGE FINANCING: A Permanent Mortgage Commitment has been issued by _____ expiring _____, in the amount of $_____ ☐ as the UNCONDITIONAL FLOOR AMOUNT OF COMMITMENT, subject only to completion of construction in accordance with plans and specifications; ☐ subject to the following preconditions: _____

10. ZONING: Is the property presently zoned for its intended use? ☒ Yes ☐ No.

11. BRIEF DESCRIPTION OF PROPERTY: See attached.

12. OTHER PROPERTY INFORMATION: Property is presently ☒ Owned ☐ Being Purchased.
Purchase Price $_____; Existing Loans on Property: $ _____ Mortgage or Deed of Trust held by: _____

13. DOCUMENTS REQUIRED FOR COMMITMENT: The following documents are enclosed herewith.

☐ 1. Current SIGNED Financial Statements (not over six months old) on the following:
- ☐ a. Borrower
- ☐ b. Each Loan Guarantor
- ☐ c. General Contractor (must include Income Statement)

☐ 2. Narrative Description of Contractor's integrity, ability and experience with supporting documents.

☐ 3. Signed copy of Construction Contract.

☐ 4. Complete copy of Project's Plans, including plot plan approved and SIGNED by Owner and Permanent Lender.

☐ 5. Copy of the Project's Construction Specifications, approved and SIGNED by Owner and Permanent Lender.

☐ 6. Exhibit "A" — FMI Supplemental Cost Items Breakdown.

☐ 7. Exhibit "B" — FMI Construction: Development Costs Breakdown.

☐ 8. Exhibit "C" — FMI Income Property Construction Loan Analysis Worksheet.

☐ 9. Cash Flow Projection.

☐ 10. Property Location Map.

☐ 11. Copy of Permanent Lender's Firm Commitment.

☐ 12. Copy of Appraisal used by Permanent Investor or a qualified Appraisal.

☐ 13. Copy of Mortgagor's Application submitted to Permanent Lender.

☐ 14. If not included in Appraisal or Permanent Loan Application, Narrative Description of proposed Project.

12. LOAN APPLICATION DEPOSIT: A Cash Deposit of $ 50,000.00, representing _____ % of the Loan Amount is enclosed herewith. Should this Loan Application be accepted by FMI and FMI issues a Commitment substantially in accordance with the terms and conditions contained in the Borrower's Loan Application and the Borrower does not accept the Commitment, then the entire Loan Application Deposit will be retained as liquidated damages. Should the Borrower accept FMI's Commitment for this Loan and not close the Loan, then this Deposit will be retained as liquidated damages. In addition, if the Borrower accepts FMI's Loan Commitment and the Loan is funded, said Deposit shall be returned to the Borrower when the Loan is closed. Finally, should this Loan Application not be accepted by FMI, said Deposit will be returned to the Borrower in full.

14. CERTIFICATION: We certify that the information contained in this Loan Application is true and correct. We further certify that the Corporate Borrower is the bona fide Borrower applying for this Loan and that said Corporation has not been formed or availed of to evade or circumvent the applicable usury laws of any State or States concerned. In the event this Loan Application is being submitted by an individual or company other than the Loan's proposed Borrower or Guarantors, then we further certify that neither our Company nor any Stockholder, nor Employee thereof, has any ownership of profit interest in subject property except as follows: None

COMPANY: Berens Mortgage Bankers, Inc. By: Clyde D. Frame
Address GPO Box 3529 Title: President
San Juan, Puerto Rico 00936
Inmobiliaria Melia de Puerto Rico, Inc. By: _____
Martin Cohen, President

EV 166

1018

BASIC EQUITIES & DEVELOPMENT CORP.
111 WEST 40TH STREET NEW YORK, N.Y. 10018

1-30
210

July 5 19 72

PAY TO THE ORDER OF Berens Mortgage Bankers Inc $25000 00/100

The sum of $25,000 and 00/100 DOLLARS

MANUFACTURERS HANOVER TRUST COMPANY
34th St. at Madison Ave., N. Y., N. Y. 10016

		AMOUNT
Good faith deposit re: Melia Apartotel project		
TOTAL OF INVOICES		
LESS % DISCOUNT		
LESS		
TOTAL DEDUCTIONS		
AMOUNT OF CHECK		

CHECKSCOS

⑈0210⑈0030⑆0130 0⑈32342⑈

APARTOTEL MANAGEMENT CORP.
NEW YORK, N. Y.

Special deposit account
Good faith deposit for Puerto Rico project

No. 249

June 28, 19 72

1-315
260 ID

PAY TO THE ORDER OF BERENS MORTGAGE BANKERS, INC. ---------- U.S.$ 18,748.75

EIGHTEEN THOUSAND SEVEN HUNDRED FORTY EIGHT and 75/100 ---------- U.S. DOLLARS

National Bank of North America
INTERNATIONAL DEPARTMENT
NEW YORK, N. Y.

APARTOTEL MANAGEMENT CORP.

Jack H. Berger

⑈0260⑈0315⑆ 2059⑈05 2559⑈

FECHA	CONCEPTO	IMPORTE
	good faith deposit re: Melia apartotel project	

PEDRO FULLANA
G.P.O. BOX 1805 SAN JUAN, P.R. 00936

No. 3754

29 junio 19 72

101-206
215

Páguese a la orden de Berens Mortgage Bankers, Inc. $6,251.25

SIXTY-TWO [illegible] Dólares

THE CHASE MANHATTAN BANK
National Association
Santurce Branch, Santurce, Puerto Rico

6-2

⑈0215⑈0206⑆ 703⑈1⑈005890⑈

D

PROMISSORY NOTE

AMOUNT: $40,000.00
MATURITY: June 30, 1974

FOR VALUE RECEIVED, the undersigned promises to pay to Juan J. Otero, or to his order, on June 30, 1974, the principal sum of FORTY THOUSAND DOLLARS ($40,000.00). The principal amount of this obligation shall bear no interest and shall be payable at such place as the holder may from time to time designate in writing.

The undersigned obligates itself to pay all the costs, disbursements and attorney's fees which may be occasioned by the efforts to collect this obligation judicially or extra-judicially and even in case recourse to the courts by the holder of this note becomes necessary, in order to collect the whole or any portion of the principal sum of this note, the undersigned in all above said cases agrees to pay a sum not in excess of ten per cent (10%) of the principal amount of this note then owing. The undersigned expressly submits itself to the personal jurisdiction of the Courts of Justice of the Commonwealth of Puerto Rico, San Juan Part, for the collection of this obligation.

The undersigned hereby waives presentation, protest or notice of dishonor and likewise such statutes of limitation or prescription as might favor it.

IN TESTIMONY OF WHICH the undersigned suscribes the present document at San Juan, Puerto Rico, this 31st day of October 1972.

INMOBILIARIA MELIA DE PUERTO RICO, INC.

By_____

PEDRO FULLANA
Executive Vice President

AFFIDAVIT NUMBER_____

Acknowledged and suscribed before me by Pedro Fullana, of legal age, married, property owner and resident of San Juan, Puerto Rico, as Executive Vice President of the above-mentioned corporation, who I personally know, and who I know occupies said position in the said corporation, in San Juan, Puerto Rico, this 31st day of October 1972.

_____

NOTARY PUBLIC

PROMISSORY NOTE

AMOUNT: $40,000.00
MATURITY: April 30, 1975

FOR VALUE RECEIVED, the undersigned promises to pay to Juan J. Otero, or to his order, on April 30, 1975, the principal sum of FORTY THOUSAND DOLLARS ($40,000.00). The principal amount of this obligation shall bear no interest and shall be payable at such place as the holder may from time to time designate in writing.

The undersigned obligates itself to pay all the costs, disbursements and attorney's fees which may be occasioned by the efforts to collect this obligation judicially or extra-judicially and even in case recourse to the courts by the holder of this note becomes necessary, in order to collect the whole or any portion of the principal sum of this note, the undersigned in all above said cases agrees to pay a sum not in excess of ten per cent (10%) of the principal amount of this note then owing. The undersigned expressly submits itself totthe personal jurisdiction of the Courts of Justice of the Commonwealth of Puerto Rico, San Juan Part, for the collection of this obligation.

The undersigned hereby waives presentation, protest or notice of dishonor and likewise such statutes of limitation or prescription as might favor it.

IN TESTIMONY OF WHICH the undersigned suscribes the present document at San Juan, Puerto Rico, this 31st day of October 1972.

INMOBILIARIA MELIA DE PUERTO RICO, INC.

By_____
PEDRO FULLANA
Executive Vice President

AFFIDAVIT NUMBER_____

Acknowledged and suscribed before me by Pedro Fullana, of legal age, married, property owner and resident of San Juan, Puerto Rico, as Executive Vice President of the above-mentioned corporation, who I personally know, and who I know occupies said position in the said corporation, in San Juan, Puerto Rico, this 31st day of October 1972.

_____
NOTARY PUBLIC

EV 169

PROMISSORY NOTE

AMOUNT: $40,000.00
MATURITY: August 31, 1973

FOR VALUE RECEIVED, the undersigned promises to pay to Juan J. Otero, or to his order, on August 31, 1973, the principal sum of FORTY THOUSAND DOLLARS ($40,000.00). The principal amount of this obligation shall bear no interest and shall be payable at such place as the holder may from time to time designate in writing.

The undersigned obligates itself to pay all the costs, disbursements and attorney's fees which may be occasioned by the efforts to collect this obligation judicially or extra-judicially and even in case recourse to the courts by the holder of this note becomes necessary, in order to collect the whole or any portion of the principal sum of this note, the undersigned in all above said cases agrees to pay a sum not in excess of ten per cent (10%) of the principal amount of this note then owing. The undersigned expressly submits itself to the personal jurisdiction of the Courts of Justice of the Commonwealth of Puerto Rico, San Juan Part, for the collection of this obligation.

The undersigned hereby waives presentation, protest or notice of dishonor and likewise such statutes of limitation or prescription as might favor it.

IN TESTIMONY OF WHICH the undersigned suscribes the present document at San Juan, Puerto Rico, this 31st day of October 1972.

INMOBILIARIA MELIA DE PUERTO RICO, INC.

By _____
PEDRO FULLANA
Executive Vice President

AFFIDAVIT NUMBER 10,124

Acknowledged and suscribed before me by Pedro Fullana, of legal age, married, property owner and resident of San Juan, Puerto Rico, as Executive Vice President of the above-mentioned corporation, who I personally know, and who I know occupies said position in the said corporation, in San Juan, Puerto Rico, this 31st day of October 1972.

_____
NOTARY PUBLIC

PAINE
WEBBER
JACKSON
& CURTIS
INCORPORATED

Established 1879 Members New York Stock Exchange, Inc. and other Principal Exchanges
140 Broadway, New York, N.Y. 10005 (212) 437-2121

EV 170

June 16, 1972

Mr. Martin Cohen
c/o International Stretch Products, Inc.
1133 Avenue of the Americas
New York, New York

Dear Marty:

As soon as available, would you please let me have the updated 12-month financials of Basic Equities, and also of Marles so that we might develop some thoughts we have in more detail.

I recognize that the impact of your newer buildings just coming on stream will really put both Basic and Marles in a much more favorable light, and would therefore suggest that you also provide me with a proforma financial statement, which in effect would consider the M & M Building and the HIC Building and any others that are going to be improved in the immediate future, as fully operational for a 12-month period. This should also take into effect the proposed rent increases that you were looking forward to in any of your currently operating, or about to be operating buildings.

Sincerely

Leonard Wilkes, Director
National Mortgage Department

LW/je
cc: Jose M. Alvarez

EXHIBIT FORD 13
EXHIBIT NO. ENTD.
FEB 28 1973
G. I. RAITT, C. S. R.

EV 171
EXHIBIT NO.
IDENTIFIED IN EVID.
FEB 28 1973
G. I. AETZ, C. S. R.

PAINE
WEBBER
JACKSON
& CURTIS
INCORPORATED

Established 1879 Members New York Stock Exchange, Inc. and other Principal Exchanges
140 Broadway, New York, N.Y. 10005 (212) 437-2121

June 16, 1972

Mr. Martin Cohen
c/o International Stretch Products, Inc.
1133 Avenue of the Americas
New York, New York

Re: Basic Equities

Dear Marty:

I am enclosing the executed copies of your Applications for Commitment covering the M & M Building, the Lincoln Building, and the Housing Investment Corporation Building, all in Metropolitan San Juan. Please note that in the case of the M & M Building we have recognized that Basic Equities has been working directly with the Liberty National Bank, and in the event you should conclude a financing with that lender, we relieve you of any liability under our authorization.

The same is true for the Housing Investment Building insofar as the First National City Bank is concerned.

In view of the partnership situation involved in the Housing Investment Building, we have agreed to waive our usual Refundable Good Faith Deposit requirement until such time as we have a definitive bid from a capable lender willing to take your application to committee for Trustee approval.

In the cases of the M & M Building and the Lincoln Building however, we should have refundable Good Faith Deposits in the amount of $33,000 and $26,000 respectively with our application, and would appreciate your ordering such checks from Basic Equities to the order of Paine, Webber, Jackson & Curtis. Meanwhile, we are proceeding with the processing and should be ready to submit by the time the checks are received.

.../...

Thank you again for your confidence -- we look forward to a speedy approval and closing for all three financings.

John and I very much enjoyed meeting you and Jay for lunch the other day and have every confidence that we will be able to go on to many other areas of financing with you.

Best personal regards.

Sincerely

Leonard Wilkes, Director
National Mortgage Department

LW/je

APPLICATION FOR COMMITMENT

EV 173

DATE: June 14, 1972

PAINE, WEBBER, JACKSON & CURTIS
Incorporated
National Mortgage Division
140 Broadway
New York, N.Y. 10005

RE: M & M BUILDING
Rio Piedras, Puerto Rico

Gentlemen:

We hereby appoint you our sole and exclusive agent to make application for a loan or loans on our behalf, to any lending institutions selected by you, on the property hereinafter designated. This authorization shall become effective upon acceptance by you and shall remain in effect for a period of 45 days from the date of your acceptance and receipt of all necessary supporting data, per submission checklist attached, and such period shall be automatically extended, unless terminated in writing, Excluding The Liberty National Bank, Being contacted (RSC) By owners Direct. (RSC)

1. PROPERTY DESCRIPTION: 297,000 square foot office building .

2. GROUND DIMENSIONS OR AREA: 128,453 square feet .

3. LOAN SECURITY: First Mortgage Note or Bond, secured by the subject property, the applicant corporation, ~~xxxxxxxxxxxxxxxxxxxxxx~~ including personal property and equipment incorporated in the realty and necessary for the operation of the subject real estate. ~~xxxxxxxxxxxxxxxxxxxx

EV 174

K. M & M Building
Rio Piedras, Puerto Rico

8. REPRESENTATIONS BY APPLICANT:

a) Title to subject property will be marketable and insurable.

b) Plans, specifications, contracts, cost breakdowns, appraisals, survey, financial statements and any other pertinent data will be furnished by applicant upon request for your use or for the use of any lender.

c) All fees for appraisals, survey, title insurance, title examination, abstract, legal fees, recordation, tax stamps, acceptance, loan fees or costs will be paid by applicant, in addition to other normal closing costs.

d) Applicant will promptly execute any lender's application and furnish such data, appraisals, and GOOD FAITH DEPOSITS, as required by the lending institution.

e) We will permit you to erect a sign on the property site, at your expense to indicate that you arranged mortgage financing, and will provide you with a 8" x 10" glossy photograph of the finished building.

f) Applicant warrants current control of the property either in fee ownership, or contract to purchase, or option to purchase, or a leasehold interest, etc., with sufficient time remaining within which to process this loan application to a firm commitment and closing by August 6, 1972

9. DEPOSIT AND FEES:

a) We herewith deposit with you, in escrow, the sum of $ 33,000 as a GOOD FAITH DEPOSIT, ~~xxxx

EV 175

RE: M & M BUILDING

SUBMISSION CHECKLIST
(X) = Items Still Required

X	1.	Plot plan showing site and surrounding streets or highways
NA	2.	Typical apartment plan for each type of apartment showing net leaseable area of each
X	3.	Typical floor plan (Key Plan) or rental plan if commercial
X	4.	Outline specifications
X	5.	Two street maps of city - Mark one map with site, rent comparables and other points of interest, including downtown area
X	6.	Two aerial photos - Mark one photo with street listings, designation of North, points of interest, major buildings, etc.
OK	7.	Specific address of subject property
OK	8.	Site description
OK	9.	Area and neighborhood description
OK	10.	Schedule of income from rents and all other sources including parking, recreation etc.
OK	11.	Itemized expenses (including RE tax details)
OK	12.	Rent & Sales comparables (three) - Must include name of development, address, number of units age, distance to subject, apartment type, area of each apartment type, monthly rental, rental per square foot, amenitites and recreational facilities and comments of location, etc.
OK	13.	Itemized cost of construction, including Architects and Engineers, on and off-site improvement costs, actual land costs, and actual cash equities in the job to date
X	14.	Rendering and elevations
OK	15.	Architect's area calculations of building, core areas, public and recreational areas etc. showing all the components, from net leaseable area to gross building area
X	16.	Authorization (attached) with required refundable GOOD FAITH DEPOSIT
OK	17.	List of sponsors and resumes of their previous real estate activity
OK	18.	Financial statements of principals and/or guarantors
OK	19.	Financial statements of applicant mortgagor corporation or entity
OK	20.	MAI Appraisal or Feasibility Study
X	21.	Rent roll showing each tenant, years of lease term, years of tax exemption granted & credit rating or report on the tenant.
X	22.	Latest financial statement of Basic.. Equities, the guarantor

M & M DEVELOPMENT CORP.

BY: _____

APPLICATION FOR COMMITMENT

EV 176

PAINE, WEBBER, JACKSON & CURTIS
Incorporated
National Mortgage Division
140 Broadway
New York, N.Y. 10005

DATE: June 14, 1972

RE: The Lincoln Building
Hato Rey, Puerto Rico

Gentlemen:

We hereby appoint you our sole and exclusive agent to make application for a loan or loans on our behalf, to any lending institutions selected by you, on the property hereinafter designated. This authorization shall become effective upon acceptance by you and shall remain in effect for a period of 45 days from the date of your acceptance and receipt of all necessary supporting data, per submission checklist attached, and such period shall be automatically extended, unless terminated in writing.

1. PROPERTY DESCRIPTION: 6-story office building - 134,660 sq..ft.

2. GROUND DIMENSIONS OR AREA: 5,331 sq. mtrs.

3. LOAN SECURITY: First Mortgage Note or Bond, secured by the subject property, the applicant corporation, including personal property and equipment incorporated in the realty and necessary for the operation of the subject real estate.

4. OTHER SECURITY: Assignment of all tenant leases, Loan to be guaranteed by Basic Equities and Development Corp.

5. FINANCING REQUESTED: Long term permanent mortgage

TYPE OF LOAN	AMOUNT	Interest-Fees-Partic.	TERM	Constant	Note
Permanent First Mortgage	$2.4 to $2.6 Mill	8-8½% interest, plus a 1~~-2~~ one time commitment fee to lender, or lender's correspondent or local originating agent.	15-20 yrs.	To self-liquidate in 20 yrs.	

6. HOLDBACK & ACHIEVEMENT: Closing will be conditioned upon Department of Labor occupancy of all the space under a 5 year lease running to 3/1/77.

7. PRE-PAYMENT PROVISIONS: Prepayment in full allowed after expiration of one half of loan term at 105% - declining ½% year thereafter to 1%.

L Weis

LINCOLN REALTY INC

BY:

BEST COPY AVAILABLE

BEST COPY AVAILABLE

RE: The Lincoln Building
Hato Rey, Puerto Rico

8. REPRESENTATIONS BY APPLICANT:

a) Title to subject property will be marketable and insurable.

b) Plans, specifications, contracts, cost breakdowns, appraisals, survey, financial statements and any other pertinent data will be furnished by applicant upon request for your use or for the use of any lender.

c) All fees for appraisals, survey, title insurance, title examination, abstract, legal fees, recordation, tax stamps, acceptance, loan fees or costs will be paid by applicant, in addition to other normal closing costs.

d) Applicant will promptly execute any lender's application and furnish such data, appraisals, and GOOD FAITH DEPOSITS, as required by the lending institution.

e) We will permit you to erect a sign on the property site, at your expense, to indicate that you arranged mortgage financing, and will provide you with a 8" x 10" glossy photograph of the finished building.

f) Applicant warrants current control of the property either in fee ownership, or contract to purchase, or option to purchase, or a leasehold interest, etc., with sufficient time remaining within which to process this loan application to a firm commitment and closing by December 1, 1972.

9. DEPOSIT AND FEES:

a) We herewith deposit with you, in escrow, the sum of $26,000 as a GOOD FAITH DEPOSIT. Said sum will be refunded without interest in the event that you do not deliver a loan commitment as herein described. In the event you do deliver such commitment, this deposit will be credited against the commissions due you in accordance with our agreement.

b) We agree to pay you a total brokerage fee of one % of the amount of each loan commitment delivered to us, which substantially conforms to the terms and conditions set forth hereinabove, and/or any loan commitment accepted by us. Upon delivery of any commitment as aforesaid, THE GOOD FAITH DEPOSIT may be credited by you towards your total fee and the balance of your total fee, if any, shall thereupon become due and payable.

10. We understand that any lending institution financing or offering to finance our loan requirements may be interested in financing other projects in which we are directly or indirectly involved. Therefore, we agree to pay you a fee as designated in paragraph 9(b), in the event that any such lending institution extends financing within thirty-six months of the date hereof, to us, or to any individual, company or corporation with which we or any of our associates, principals, affiliates, and/or subsidiaries have a direct or indirect association.

11. GOVERNING LAWS: The parties agree that the terms and conditions of this agreement shall be construed and governed by the laws of the State of New York, and acknowledge that they have read this Agreement before signing it, and have received an exact copy thereof.

Applicant: Lincoln Realty Inc.

By:

Title:

Dated:

Address: Suite C-7, Fomento Building
Hato Rey, Puerto

00919
Zip

Tel. No.: (809) 764 7171

Accepted: Paine, Webber, Jackson & Curtis Incorporated

BY: Edward Wilds Title V.P. Date: 6/16/72

EV 178

RE: The Lincoln Building
Hato Rey, Puerto Rico

SUBMISSION CHECKLIST
(X) = Items Still Required

X 1. Plot plan showing site and surrounding streets or highways

NA 2. Typical apartment plan for each type of apartment showing net leaseable area of each

X 3. Typical floor plan (Key Plan) or rental plan if commercial

NA 4. Outline specifications

X 5. Two street maps of city -
Mark one map with site, rent comparables and other points of interest, including downtown area

OK 6. Two aerial photos -
Mark one photo with street listings, designation of North, points of interest, major buildings, etc.

OK 7. Specific address of subject property

OK 8. Site description

OK 9. Area and neighborhood description

OK 10. Schedule of income from rents and all other sources including parking, recreation etc.

OK 11. Itemized expenses (including RE tax details)

OK 12. Rent & Sales comparables (three) -
Must include name of development, address, number of units age, distance to subject, apartment type, area of each apartment type, monthly rental, rental per square foot, amenitites and recreational facilities and comments of location, etc.

NA 13. Itemized cost of construction, including Architects and Engineers, on and off-site improvement costs, actual land costs, and actual cash equities in the job to date

NA 14. Rendering and elevations

X 15. Architect's area calculations of building, core areas, public and recreational areas etc. showing all the components, from net leaseable area to gross building area

X 16. Authorization (attached) with required refundable GOOD FAITH DEPOSIT

OK 17. List of sponsors and resumes of their previous real estate activity

X 18. Financial statements of principals and/or guarantors

X 19. Financial statements of applicant mortgagor corporation or entity - Basic Equities up to date

X 20. MAI Appraisal or Feasibility Study, if available.

21.

22.

Lincoln Realty, Inc.

BY:

APPLICATION FOR COMMITMENT

EV 179

PAINE, WEBBER, JACKSON & CURTIS
Incorporated
National Mortgage Division
140 Broadway
New York, N.Y. 10005

DATE: June 14, 1972

RE: HOUSING INVESTMENT BUILDING
Hato Rey, Puerto Rico

Gentlemen:

We hereby appoint you our sole and exclusive agent to make application for a loan or loans on our behalf, to any lending institutions selected by you, on the property hereinafter designated. This authorization shall become effective upon acceptance by you and shall remain in effect for a period of 45 days from the date of your acceptance and receipt of all necessary supporting data, per submission checklist attached, and such period shall be automatically extended, unless terminated in writing. ~~APPLY~~ FOR First National City Bank, Being Contacted By The owner Direct. Wilson

1. PROPERTY DESCRIPTION: 17 story office building - 172,615 sq. ft. plus 5,000 sq. ft. of retail space.

2. GROUND DIMENSIONS OR AREA: Plus 452 car parking garage

3. LOAN SECURITY: First Mortgage Note or Bond, secured by the subject property, the applicant corporation, ~~[illegible]~~ including personal property and equipment incorporated in the realty and necessary for the operation of the subject real estate. ~~For construction mortgage loans, satisfactory Completion and Performance bonds will also be required of the General Contractor.~~

4. OTHER SECURITY: Assignment of all tenant leases, [redacted] Loan to be guaranteed by Basic Equities & Development Corp.

5. FINANCING REQUESTED: Long Term Permanent Mortgage

TYPE OF LOAN	AMOUNT	Interest-Fees-Partic.	TERM	Constant	Note
Permanent First Mortgage	$7.3 to 7.7 Mill	8 1/8 to 8 3/8 interest, plus a 1-2% one time commitment fee to lender or lender's correspondent, or local originating agent.	22-27 yrs.	To self-liquidate in term	

6. HOLDBACK & ACHIEVEMENT: Closing of top amount will be conditioned of occupancy of HIC, and of 5,000 sq. ft. of retail area with minimum of $50,000 gross rents.

7. PRE-PAYMENT PROVISIONS: Prepayment in full allowed after expiration of one half of loan term at 105%, declining ½% year thereafter to 1%.

SAN JORGE DEVELOPMENT, INC.

BY: [signature]

L Wilson

8. REPRESENTATIONS BY APPLICANT:

a) Title to subject property will be marketable and insurable.

b) Plans, specifications, contracts, cost breakdowns, appraisals, survey, financial statements and any other pertinent data will be furnished by applicant upon request for your use or for the use of any lender.

c) All fees for appraisals, survey, title insurance, title examination, abstract, legal fees, recordation, tax stamps, acceptance, loan fees or costs will be paid by applicant, in addition to other normal closing costs.

d) Applicant will promptly execute any lender's application and furnish such data, appraisals, and GOOD FAITH DEPOSITS, as required by the lending institution.

e) We will permit you to erect a sign on the property site, at your expense, to indicate that you arranged mortgage financing, and will provide you with a 8" x 10" glossy photograph of the finished building.

f) Applicant warrants current control of the property either in fee ownership, or contract to purchase, or option to purchase, or a leasehold interest, etc., with sufficient time remaining within which to process this loan application to a firm commitment and closing by December 1, 1972.

9. DEPOSIT AND FEES:

a) We herewith deposit with you, in escrow, the sum of $ None as a GOOD FAITH DEPOSIT.

Said sum will be refunded without interest in the event that you do not deliver a loan commitment as herein described. In the event you do deliver such commitment, this deposit will be credited against the commissions due you in accordance with our agreement. 1/2% at time of formal Lender application

b) We agree to pay you a total brokerage fee of one % of the amount of each loan commitment delivered to us, which substantially conforms to the terms and conditions set forth hereinabove, and/or any loan commitment accepted by us. Upon delivery of any commitment as aforesaid, THE GOOD FAITH DEPOSIT may be credited by you towards your total fee and the balance of your total fee, if any, shall thereupon become due and payable.

10. ~~We understand that any lending institution financing or offering to finance our loan request may be interested in financing other projects in which we are directly or indirectly involved. Therefore, we agree to pay you a fee as designated in paragraph 9(b), in the event that any such lending institution extends financing within thirty-six months of the date hereof, to us, or to any individual, company or corporation with which we or any of our associates, principals, affiliates, and/or subsidiaries have direct or indirect association.~~

11. GOVERNING LAWS: The parties agree that the terms and conditions of this agreement shall be construed and governed by the laws of the State of New York, and acknowledge that they have read this Agreement before signing it, and have received an exact copy thereof.

Applicant SAN JORGE DEVELOPMENT, INC. Address Suite G-7 Fomento Bldg.

By: Hato Rey, Puerto Rico

Title: 00919
Zip

Dated: Tel. No. 809) 764 7171

Accepted: Paine, Webber, Jackson, & Curtis Incorporated

BY: Leonard Wiles Title V.P. Date: 6/15/72

RE: Housing Investment Building
Hato Rey, Puerto Rico

SUBMISSION CHECKLIST
(X) = Items Still Required

X 1. Plot plan showing site and surrounding streets or highways

NA 2. Typical apartment plan for each type of apartment showing net leaseable area of each

OK 3. Typical floor plan (Key Plan) or rental plan if commercial

X 4. Outline specifications

X 5. Two street maps of city -
Mark one map with site, rent comparables and other points of interest, including downtown area

X 6. Two aerial photos -
Mark one photo with street listings, designation of North, points of interest, major buildings, etc.

X 7. Specific address of subject property

OK 8. Site description

OK 9. Area and neighborhood description

OK 10. Schedule of income from rents and all other sources including parking, recreation etc.

OK 11. Itemized expenses (including RE tax details)

OK 12. Rent & Sales comparables (three) -
Must include name of development, address, number of units age, distance to subject, apartment type, area of each apartment type, monthly rental, rental per square foot, amenitites and recreational facilities and comments of location, etc.

X 13. Itemized cost of construction, including Architects and Engineers, on and off-site improvement costs, actual land costs, and actual cash equities in the job to date

OK 14. Rendering and elevations

X 15. Architect's area calculations of building, core areas, public and recreational areas etc. showing all the components, from net leaseable area to gross building area

X 16. Authorization (attached) with required refundable GOOD FAITH DEPOSIT

OK 17. List of sponsors and resumes of their previous real estate activity

X 18. Financial statements of principals and/or guarantors

X 19. Financial statements of applicant mortgagor corporation or entity latest Basic Equities

X 20. MAI Appraisal or Feasibility Study

21.

22.

SAN JORGE DEVELOPMENT, IN

BY: [signature]

APPLICATION FOR COMMITMENT

EV 182

PAINE, WEBBER, JACKSON & CURTIS
Incorporated
National Mortgage Division
140 Broadway
New York, N.Y. 10005

DATE: June 14, 1972

RE: M & M BUILDING
Rio Piedras, Puerto Rico

Gentlemen:

We hereby appoint you our sole and exclusive agent to make application for a loan or loans on our behalf, to any lending institutions selected by you, on the property hereinafter designated. This authorization shall become effective upon acceptance by you and shall remain in effect for a period of 45 days from the date of your acceptance and receipt of all necessary supporting data, per submission checklist attached, and such period shall be automatically extended, unless terminated in writing, excluding the Liberty National Bank, being contacted By owners direct. WHB

1. PROPERTY DESCRIPTION: 297,000 square foot office building .

2. GROUND DIMENSIONS OR AREA: 128,453 square feet

3. LOAN SECURITY: First Mortgage Note or Bond, secured by the subject property, the applicant corporation, ~~its principals and their wives~~ including personal property and equipment incorporated in the realty and necessary for the operation of the subject real estate. ~~Rox construction in our regular name satisfactory Corporation and Partnership Bonds with assignment of the General Contractor~~

4. OTHER SECURITY: Assignment of all tenant leases, ~~and executed contracts with as tenant deposits and advances~~ Loan to be guaranteed by Basic Equities and Development Corp.

5. FINANCING REQUESTED: Long Term Permanent

TYPE OF LOAN	AMOUNT	Interest-Fees-Partic.	TERM	Constant	Note
Permanent First Mortgage	$3.0 to $3.3 Mill	8¼-8½% plus a 1~~-2~~%, one time commitment fee to the lender, or lender's correspondent, or local originating agent.	15-20 yrs.	To self-liquidate in 20 yrs.	

6. HOLDBACK & ACHIEVEMENT: Closing of ceiling amount will be conditioned upon occupancy of 260,000 sq. ft. at minimum of $440,000 rent roll including International Stretch with 85,000 sq. ft. and other high rated tenants comprising an additional 85,000 sq. ft.

7. PRE-PAYMENT PROVISIONS: Prepayment in full allowed after expiration of ½ of the loan term at 105, declining ¼% per year thereafter to 1%.

M & M DEVELOPMENT CORPORATION

EV 183

R_. M & M Building
Rio Piedras, Puerto Rico

8. REPRESENTATIONS BY APPLICANT:

a) Title to subject property will be marketable and insurable.

b) Plans, specifications, contracts, cost breakdowns, appraisals, survey, financial statements and any other pertinent data will be furnished by applicant upon request for your use or for the use of any lender.

c) All fees for appraisals, survey, title insurance, title examination, abstract, legal fees, recordation, tax stamps, acceptance, loan fees or costs will be paid by applicant, in addition to other normal closing costs.

d) Applicant will promptly execute any lender's application and furnish such data, appraisals, and GOOD FAITH DEPOSITS, as required by the lending institution.

e) We will permit you to erect a sign on the property site, at your expense, to indicate that you arranged mortgage financing, and will provide you with a 8" x 10" glossy photograph of the finished building.

f) Applicant warrants current control of the property either in fee ownership, or contract to purchase, or option to purchase, or a leasehold interest, etc., with sufficient time remaining within which to process this loan application to a firm commitment and closing by August 6, 1972

9. DEPOSIT AND FEES:

a) We herewith deposit with you, in escrow, the sum of $ 33,000 as a GOOD FAITH DEPOSIT, ~~xxxx

RE: M & M BUILDING

SUBMISSION CHECKLIST
(X) = Items Still Required

X	1.	Plot plan showing site and surrounding streets or highways
NA	2.	Typical apartment plan for each type of apartment showing net leaseable area of each
X	3.	Typical floor plan (Key Plan) or rental plan if commercial
X	4.	Outline specifications
X	5.	Two street maps of city - Mark one map with site, rent comparables and other points of interest, including downtown area
X	6.	Two aerial photos - Mark one photo with street listings, designation of North, points of interest, major buildings, etc.
OK	7.	Specific address of subject property
OK	8.	Site description
OK	9.	Area and neighborhood description
OK	10.	Schedule of income from rents and all other sources including parking, recreation etc.
OK	11.	Itemized expenses (including RE tax details)
OK	12.	Rent & Sales comparables (three) - Must include name of development, address, number of units age, distance to subject, apartment type, area of each apartment type, monthly rental, rental per square foot, amenitites and recreational facilities and comments of location, etc.
OK	13.	Itemized cost of construction, including Architects and Engineers, on and off-site improvement costs, actual land costs, and actual cash equities in the job to date
X	14.	Rendering and elevations
OK	15.	Architect's area calculations of building, core areas, public and recreational areas etc. showing all the components, from net leaseable area to gross building area
X	16.	Authorization (attached) with required refundable GOOD FAITH DEPOSIT
OK	17.	List of sponsors and resumes of their previous real estate activity
OK	18.	Financial statements of principals and/or guarantors
OK	19.	Financial statements of applicant mortgagor corporation or entity
OK	20.	MAI Appraisal or Feasibility Study
X	21.	Rent roll showing each tenant, years of lease term, years of tax exemption granted & credit rating or report on the tenant.
X	22.	Latest financial statement of Basic Equities, the guarantor

M & M DEVELOPMENT CORP

EV 185

FEB 28 1973

G. I. ARTZ, C. S. R.

PAINE
WEBBER
JACKSON
& CURTIS
INCORPORATED

Established 1879 Members New York Stock Exchange, Inc. and other Principal Exchanges
140 Broadway, New York, N.Y. 10005 (212) 437-2121

June 2, 1972

Mr. Martin Cohen
International Stretch Products, Inc.
1133 Avenue of the Americas
New York, New York

Re: Lincoln Building
Hato Rey, Puerto Rico

Dear Marty:

I have analyzed the numbers you gave me regarding the permanent mortgage financing of the Lincoln Office Building and believe I could deliver a commitment ranging from $1,750,000 to $2 million. The rate would range from 8-8¼% with a term or payout from 15-20 years.

If this would be suitable, would you please provide me with whatever appraisal or other information you might have in your Puerto Rico office so that I can prepare a formal Application for Commitment.

I look forward to the opportunity of being of service to you in this regard.

Sincerely

Leonard W.

Leonard Wilkes

LW/je

PAINE
WEBBER
JACKSON
& CURTIS
INCORPORATED

Established 1879 Members New York Stock Exchange, Inc. and other Principal Exchanges
140 Broadway, New York, N.Y. 10005 (212) 437-2121

FEB 28 19[illegible]
EV 186
C. L. METZ, C. S. R.

June 2, 1972

Mr. Martin Cohen
International Stretch Products, Inc.
1133 Avenue of the Americas
New York, New York

Re: M & M Building
Rio Piedras, Puerto Rico

Dear Marty:

As we have discussed, I have preliminary institutional interest in the long term permanent financing of your M & M Building along terms and conditions as outlined in the attached Application for Commitment.

The only problem I foresee at the moment will be in the term of the mortgage, which to a large degree will depend upon the term of your tenant leases. The more 20-25 years we can show, the greater will be our chance of obtaining a 25 year payout. Can we at least get this kind of term from International Stretch?

The other question that was raised concerns the tax exempt status of your various tenants. If such status is going to expire during the term of the mortgage, what provisions if any can be made to cover the lender for the increased operating costs that will result from the increase in real estate taxes?

It is timely however to actively go out for the long term permanent, and if the terms and conditions meet your requirements, please execute our authorization in the three spaces provided and return the original to my attention with the required refundable Good Faith Deposit and as much of the information as you have available called for on the submission checklist.

I look forward to a quick and successful financing of this property.

Sincerely

Leonard W.

Leonard Wilkes

LW/je
Encl.

EV 187

APPLICATION FOR COMMITMENT

PAINE, WEBBER, JACKSON & CURTIS
Incorporated
National Mortgage Division
140 Broadway
New York, N.Y. 10005

DATE: June 2, 1972

RE: M & M BUILDING
Rio Piedras, Puerto Rico

Gentlemen:

We hereby appoint you our sole and exclusive agent to make application for a loan or loans on our behalf, to any lending institutions selected by you, on the property hereinafter designated. This authorization shall become effective upon acceptance by you and shall remain in effect for a period of 45 days from the date of your acceptance and receipt of all necessary supporting data, per submission checklist attached, and such period shall be automatically extended, unless terminated in writing.

1. PROPERTY DESCRIPTION: 297,000 square foot office building

2. GROUND DIMENSIONS OR AREA: 128,453 square feet

3. LOAN SECURITY: First Mortgage Note or Bond, secured by the subject property, the applicant corporation, [illegible] including personal property and equipment incorporated in the realty and necessary for the operation of the subject real estate. [illegible]

4. OTHER SECURITY: Assignment of all tenant leases, [illegible] Loan to be guaranteed by Basic Equities and Development Corp.

5. FINANCING REQUESTED: Long Term Permanent

TYPE OF LOAN	AMOUNT	Interest-Fees-Partic.	TERM	Constant	Note
Permanent first mortgage	$3.0 to $3.3 Mill	8¼-8½% plus a 1-2% one time commitment fee to the lender.	15-20 years	To self-liquidate	

6. HOLDBACK & ACHIEVEMENT: N.A.

7. PRE-PAYMENT PROVISIONS: Prepayment in full allowed after expiration of ½ of the loan term at 105, declining ½% per year thereafter to 1%.

M & M DEVELOPMENT CORPORATION

_____

EV 188

RE: M & M Building
Rio Piedras, Puerto Rico

8. REPRESENTATIONS BY APPLICANT:

a) Title to subject property will be marketable and insurable.

b) Plans, specifications, contracts, cost breakdowns, appraisals, survey, financial statements and any other pertinent data will be furnished by applicant upon request for your use or for the use of any lender.

c) All fees for appraisals, survey, title insurance, title examination, abstract, legal fees, recordation, tax stamps, acceptance, loan fees or costs will be paid by applicant, in addition to other normal closing costs.

d) Applicant will promptly execute any lender's application and furnish such data, appraisals, and GOOD FAITH DEPOSITS, as required by the lending institution.

e) We will permit you to erect a sign on the property site, at your expense, to indicate that you arranged mortgage financing, and will provide you with a 8" x 10" glossy photograph of the finished building.

f) Applicant warrants current control of the property either in fee ownership, or contract to purchase, or option to purchase, or a leasehold interest, etc., with sufficient time remaining within which to process this loan application to a firm commitment and closing by December 1, 1972

9. DEPOSIT AND FEES:

a) We herewith deposit with you, in escrow, the sum of $ 33,000 as a GOOD FAITH DEPOSIT, [illegible] Said sum will be refunded without interest in the event that you do not deliver a loan commitment as herein described. In the event you do deliver such commitment, this deposit will be credited against the commissions due you in accordance with our agreement.

b) We agree to pay you a total brokerage fee of one % of the amount of each loan commitment delivered to us, which substantially conforms to the terms and conditions set forth hereinabove, and/or any loan commitment accepted by us. Upon delivery of any commitment as aforesaid, THE GOOD FAITH DEPOSIT may be credited by you towards your total fee and the balance of your total fee, if any, shall thereupon become due and payable.

10. We understand that any lending institution financing or offering to finance our loan request may be interested in financing other projects in which we are directly or indirectly involved. Therefore, we agree to pay you a fee as designated in paragraph 9(b), in the event that any such lending institution extends financing within thirty-six months of the date hereof, to us, or to any individual, company or corporation with which we or any of our associates, principals, affiliates, and/or subsidiaries have a direct or indirect association.

11. GOVERNING LAWS: The parties agree that the terms and conditions of this agreement shall be construed and governed by the laws of the State of New York, and acknowledge that they have read this Agreement before signing it, and have received an exact copy thereof.

Applicant M & M DEVELOPMENT CORP. Address Suite G-7 Fomento Building

By: Hato Rey, Puerto Rico

Title: 00919

Zip

Dated: Tel. No. (809) 764 7171

Accepted: Paine, Webber, Jackson & Curtis Incorporated

BY: Title Date:

RE: M & M BUILDING

SUBMISSION CHECKLIST
(X) = Items Still Required

X	1.	Plot plan showing site and surrounding streets or highways
NA	2.	Typical apartment plan for each type of apartment showing net leaseable area of each
X	3.	Typical floor plan (Key Plan) or rental plan if commercial
X	.	Outline specifications
X	5.	Two street maps of city - Mark one map with site, rent comparables and other points of interest, including downtown area
X	6.	Two aerial photos - Mark one photo with street listings, designation of North, points of interest, major buildings, etc.
OK	7.	Specific address of subject property
OK	8.	Site description
OK	9.	Area and neighborhood description
OK	10.	Schedule of income from rents and all other sources including parking, recreation etc.
OK	11.	Itemized expenses (including RE tax details)
OK	12.	Rent & Sales comparables (three) - Must include name of development, address, number of units age, distance to subject, apartment type, area of each apartment type, monthly rental, rental per square foot, amenitites and recreational facilities and comments of location, etc.
OK	13.	Itemized cost of construction, including Architects and Engineers, on and off-site improvement costs, actual land costs, and actual cash equities in the job to date
X	14.	Rendering and elevations
OK	15.	Architect's area calculations of building, core areas, public and recreational areas etc. showing all the components, from net leaseable area to gross building area
X	16.	Authorization (attached) with required refundable GOOD FAITH DEPOSIT
OK	17.	List of sponsors and resumes of their previous real estate activity
OK	18.	Financial statements of principals and/or guarantors
OK	19.	Financial statements of applicant mortgagor corporation or entity
OK	20.	MAI Appraisal or Feasibility Study
X	21.	Rent roll showing each tenant, years of lease term, years of tax exemption granted & credit rating or report on the tenant.
X	22.	Latest financial statement of Basic Equities, the guarantor

M & M DEVELOPMENT CORP

APPLICATION FOR COMMITMENT

EV 190

PAINE, WEBBER, JACKSON & CURTIS
Incorporated
National Mortgage Division
140 Broadway
New York, N.Y. 10005

DATE: June 2, 1972

RE: M & M BUILDING
Rio Piedras, Puerto Rico

Gentlemen:

We hereby appoint you our sole and exclusive agent to make application for a loan or loans on our behalf, to any lending institutions selected by you, on the property hereinafter designated. This authorization shall become effective upon acceptance by you and shall remain in effect for a period of 45 days from the date of your acceptance and receipt of all necessary supporting data, per submission checklist attached, and such period shall be automatically extended, unless terminated in writing.

1. PROPERTY DESCRIPTION: 297,000 square foot office building

2. GROUND DIMENSIONS OR AREA: 128,453 square feet

3. LOAN SECURITY: First Mortgage Note or Bond, secured by the subject property, the applicant corporation, [illegible] including personal property and equipment incorporated in the realty and necessary for the operation of the subject real estate. [illegible]

4. OTHER SECURITY: Assignment of all tenant leases, [illegible] Loan to be guaranteed by Basic Equities and Development Corp.

5. FINANCING REQUESTED: Long Term Permanent

TYPE OF LOAN	AMOUNT	Interest-Fees-Partic.	TERM	Constant	Note
Permanent first mortgage	$3.0 to $3.3 Mill	8¼-8½% plus a 1-2% one time commitment fee to the lender.	15-20 years	To self-liquidate	

6. HOLDBACK & ACHIEVEMENT: N.A.

7. PRE-PAYMENT PROVISIONS: Prepayment in full allowed after expiration of ½ of the loan term at 10%, declining ½% per year thereafter to 1%.

M & M DEVELOPMENT CORPORATION

BEST COPY AVAILABLE

EV 191

RE: M & M Building
Rio Piedras, Puerto Rico

8. REPRESENTATIONS BY APPLICANT:

a) Title to subject property will be marketable and insurable.

b) Plans, specifications, contracts, cost breakdowns, appraisals, survey, financial statements and any other pertinent data will be furnished by applicant upon request for your use or for the use of any lender.

c) All fees for appraisals, survey, title insurance, title examination, abstract, legal fees, recordation, tax stamps, acceptance, loan fees or costs will be paid by applicant, in addition to other normal closing costs.

d) Applicant will promptly execute any lender's application and furnish such data, appraisals, and GOOD FAITH DEPOSITS, as required by the lending institution.

e) We will permit you to erect a sign on the property site, at your expense, to indicate that you arranged mortgage financing, and will provide you with a 8" x 10" glossy photograph of the finished building.

f) Applicant warrants current control of the property either in fee ownership, or contract to purchase, or option to purchase, or a leasehold interest, etc., with sufficient time remaining within which to process this loan application to a firm commitment and closing by December 1, 1972

9. DEPOSIT AND FEES:

a) We herewith deposit with you, in escrow, the sum of $ 33,000 as a GOOD FAITH DEPOSIT, [illegible] Said sum will be refunded without interest in the event that you do not deliver a loan commitment as herein described. In the event you do deliver such commitment, this deposit will be credited against the commissions due you in accordance with our agreement.

b) We agree to pay you a total brokerage fee of one % of the amount of each loan commitment delivered to us, which substantially conforms to the terms and conditions set forth hereinabove, and/or any loan commitment accepted by us. Upon delivery of any commitment as aforesaid, THE GOOD FAITH DEPOSIT may be credited by you towards your total fee and the balance of your total fee, if any, shall thereupon become due and payable.

10. We understand that any lending institution financing or offering to finance our loan request may be interested in financing other projects in which we are directly or indirectly involved. Therefore, we agree to pay you a fee as designated in paragraph 9(b), in the event that any such lending institution extends financing within thirty-six months of the date hereof, to us, or to any individual, company or corporation with which we or any of our associates, principals, affiliates, and/or subsidiaries have a direct or indirect association.

11. GOVERNING LAWS: The parties agree that the terms and conditions of this agreement shall be construed and governed by the laws of the State of New York, and acknowledge that they have read this Agreement before signing it, and have received an exact copy thereof.

Applicant M & M DEVELOPMENT CORP.

By:

Title:

Dated:

Address Suite G-7 Fomento Building
Hato Rey, Puerto Rico
00919
Zip

Tel. No. (809) 764 7171

Accepted: Paine, Webber, Jackson & Curtis Incorporated

BY: Title Date:

RE: M & M BUILDING

SUBMISSION CHECKLIST
(X) = Items Still Required

X	1.	Plot plan showing site and surrounding streets or highways
NA	2.	Typical apartment plan for each type of apartment showing net leaseable area of each
X	3.	Typical floor plan (Key Plan) or rental plan if commercial
X	4.	Outline specifications
X	5.	Two street maps of city - Mark one map with site, rent comparables and other points of interest, including downtown area
X	6.	Two aerial photos - Mark one photo with street listings, designation of North, points of interest, major buildings, etc.
OK	7.	Specific address of subject property
OK	8.	Site description
OK	9.	Area and neighborhood description
OK	10.	Schedule of income from rents and all other sources including parking, recreation etc.
OK	11.	Itemized expenses (including RE tax details)
OK	12.	Rent & Sales comparables (three) - Must include name of development, address, number of units age, distance to subject, apartment type, area of each apartment type, monthly rental, rental per square foot, amenitites and recreational facilities and comments of location, etc.
OK	13.	Itemized cost of construction, including Architects and Engineers, on and off-site improvement costs, actual land costs, and actual cash equities in the job to date
X	14.	Rendering and elevations
OK	15.	Architect's area calculations of building, core areas, public and recreational areas etc. showing all the components, from net leaseable area to gross building area
X	16.	Authorization (attached) with required refundable GOOD FAITH DEPOSIT
OK	17.	List of sponsors and resumes of their previous real estate activity
OK	18.	Financial statements of principals and/or guarantors
OK	19.	Financial statements of applicant mortgagor corporation or entity
OK	20.	MAI Appraisal or Feasibility Study
X	21.	Rent roll showing each tenant, years of lease term, years of tax exemption granted & credit rating or report on the tenant.
X	22.	Latest financial statement of Basic Equities, the guarantor

M & M DEVELOPMENT CORP.

PAINE
WEBBER
JACKSON
& CURTIS
INCORPORATED

Established 1879 Members New York Stock Exchange, Inc. and other Principal Exchanges
140 Broadway, New York, N.Y. 10005 (212) 437-2121

FEB 28 1973

EV 193

May 31, 1972

Mr. Neil Montilla
GPO Box 3529
San Juan, Puerto Rico 00936

Dear Neil:

What has happened to our poor package, that we had hoped to gain time with by shipping Pan Am, is not to be believed. When my ulcerfinally calms down I am sure I will find something funny to laugh about. As you will note from the enclosed receipt, the package was picked up at our office on May 24. As of this morning it is still "somewhere" in New York and I have everybody from the President down looking for it. Although they have assured me that it will get on a flight today, in order to avoid further aggravation I am enclosing herewith a partial duplicate set of the documents originally sent to you. Nevertheless, we will advise your office as soon as we get a flight number on the original package which will go out under Airway Bill #026-2853-1882.

The enclosed package basically includes the Horwath & Horwath Hotel feasibility survey, the Pedro A. Pons appraisal, the engineering quantity take-offs and cost estimates, and the pertinent financial statements. Many of these documents are my only remaining copies, but since it would take another day or so to photostat, which time I do not wish to lose, I am sending them along anyway, and would ask that you return them to me when our wayward package finally arrives.

Included also is the full package of our original authorization and subsequent reauthorizations along the terms of FMI's quote, which I am grateful that you are holding for us. Our co-brokerage agreement is also included.

.../...

You can pick up plans and specs and any other documentation that may be available directly from Mr. Pedro Fullana at his Fidelity Bond and Mortgage Company office at 1610 Ponce de Leon Avenue, Santurce -- Telephone (809) 725 5858. Please do not hesitate to call on Mr. Fullana for any assistance you may require at this time.

As soon as you are ready to take a formal application for FMI, please advise me, at which time I will make arrangements for the necessary parties to get together to sign the application and put up the required FMI Good Faith Deposit of $50,000.

Please excuse the unpardonable delay on our part in getting the necessary documentation to you, but as you can see we had no control over events that occurred in the transmission.

We look forward to a speedy approval and closing and funding of this loan, since my clients are most anxious to commence construction immediately.

Best personal regards.

Sincerely

Leonard

Leonard Wilkes, Director
National Mortgage Department

LW/je
cc: Pedro Fullana
Jack Berger
Martin Cohen

937-8510 C.R. 1

UNIFORM AIRBILL NON-NEGOTIABLE

Subject to Conditions of Contract on the Back of the Airbill

AIRBILL NUMBER

CARRIER	ORIGIN	SERIAL NUMBER
PAA		0267-6726

☐ CARRIER'S LIABILITY IS LIMITED PER ITEM 3 ON REVERSE SIDE. SHIPPER BY INITIAL IN BOX AT LEFT ACCEPTS RELEASED VALUE. OR, SHIPPER REQUESTS DECLARED VALUE SHOWN (subject to additional charge) →

DECLARED VALUE: NVD

EV 195

ROUTING: Airline routing applies unless shipper inserts specific routing here

☑ PREPAID ☐ COLLECT

TO	VIA	TO	VIA	TO	VIA	TO	VIA

CHARGE CODES

PX PREPAID CREDIT
PP PREPAID CASH
CC COLLECT
CG COLLECT G.B.L.
CP COLLECT CASH
CX COLLECT CREDIT
MX PART PREPAID PARTIAL COLLECT CREDIT
MP PART PREPAID PARTIAL COLLECT CASH
PG PREPAID GBL AND/OR GTR
A ASSEMBLY
B CLEARANCE HANDLING
C CONTAINER-KENNEL
D DISTRIBUTION
E INSURANCE
G SIGNATURE SERVICE
H SEPARATE EARLY RELEASE
M MISCELLANEOUS SERVICE CHARGE
P PACKAGING
S STORAGE
T STATE SALES TAX
X UNASSIGNED
AFC REMITTANCE FOLLOWING COLLECTION

CARRIER USE ONLY

RATE	CHARGES
	WEIGHT CHARGES $
	PICK UP
	DELIVERY
	EXCESS VALUE
	ADVANCES
	OTHER
	SHIPPER'S COD
	C.O.D. FEE
	TAX
	TOTAL CHARGES $

CONSIGNEE'S ACCOUNT NUMBER

↓ CONSIGNEE ↓

NAME: Clyde Frame, President
Berens Mortgage Bankers

STREET ADDRESS: Pan Am Bldg.
Stop 30 Ponce De Leon Avenue

CITY: San Juan STATE: Puerto Rico ZIP CODE: 00936

SPECIAL INSTRUCTIONS, INCLUDING CUSTOMER REFERENCE NUMBER AND BILLING INSTRUCTIONS

SHIPPER'S ACCOUNT NUMBER

↓ SHIPPER ↓

NAME: Leonard Wilkes
Paine,Webber,Jackson & Curtis,Inc

STREET ADDRESS: 140 Broadway

CITY: New York STATE: New York ZIP CODE: 10005

PCS/PKGS | LENGTH | WIDTH | DEPTH | CUBIC INCHES: X X =

DIMENSIONAL WGT – LBS

C.O.D. Shipment ← if amount entered here by Shipper

PICK UP ZONE	ORIG. ADVANCE CHGS	DESCRIPTION OF ORIGIN ADVANCE CHARGES	DEST. ADVANCE CHGS	DESCRIPTION OF DESTINATION ADVANCE CHARGES

OTHER CHARGES	DESCRIPTION OF OTHER CHARGES	G.B.L./G.T.R. NUMBER

NO. PCS	WEIGHT	DESCRIPTION OF PIECES AND CONTENTS PACKING MARKS NUMBER
1	5	P/M

CHARGE – FOR CARRIERS USE ONLY

A WEIGHT CHARGES	B PICK UP	C DELIVERY	D EXCESS VALUE	E ADVANCES	F OTHER	G SHIPPER'S COD	H C.O.D. FEE

I TAX	TOTAL CHARGES	1ST RATE	2ND RATE	3RD RATE	ITEMS PREPAID	SHIPPER PAYS

EXECUTED AT/BY: Mick San Gaetan DATE: 5/21/82 TIME:

ITEMS COLLECT	CONSIGNEE PAYS

THIS IS NOT AN INVOICE

CARRIER	ORIGIN	SERIAL NUMBER
		0267-6726

(AC 17) (11-71)

1. SHIPPER'S RECEIPT

Rite Trucking Co → 937-8510 "Contact"

Airbill 026-2853-1882

Deliver to PAA - Bldg ☐ 3rd fl

PAA time 0014 - 5/20/82

212) 973-4321

BEST COPY AVAILABLE

APPLICATION FOR COMMITMENT

EV 196

PAINE, WEBBER, JACKSON & CURTIS
Incorporated
National Mortgage Division
140 Broadway
New York, N.Y. 10005

DATE: June 14, 1972

RE: HOUSING INVESTMENT BUILDING
Hato Rey, Puerto Rico

Gentlemen:

We hereby appoint you our sole and exclusive agent to make application for a loan or loans on our behalf, to any lending institutions selected by you, on the property hereinafter designated. This authorization shall become effective upon acceptance by you and shall remain in effect for a period of 45 days from the date of your acceptance and receipt of all necessary supporting data, per submission checklist attached, and such period shall be automatically extended, unless terminated in writing, Except For First National City Bank, Being contacted Directly By Owner. Wills

1. PROPERTY DESCRIPTION: 17 story office building - 172,615 sq. ft. plus 5,000 sq. ft. of retail space.

2. GROUND DIMENSIONS OR AREA: Plus 452 car parking garage

3. LOAN SECURITY: First Mortgage Note or Bond, secured by the subject property, the applicant corporation, ~~its partnership and their interests~~ including personal property and equipment incorporated in the realty and necessary for the operation of the subject real estate. ~~For construction mortgage loans, satisfactory~~ Completion and Performance ~~bonds or letters of credit issued by the General Contractor.~~

4. OTHER SECURITY: Assignment of all tenant leases, [redacted] Loan to be guaranteed by Basic Equities & Development Corp.

5. FINANCING REQUESTED: Long Term Permanent Mortgage

TYPE OF LOAN	AMOUNT	Interest-Fees-Partic.	TERM	Constant	Note
Permanent First Mortgage	$7.3 to 7.7 Mill	8 1/8 to 8 3/8 interest, plus a 1 ~~2~~ one time commitment fee to lender or lender's correspondent, or local originating agent.	22-27 yrs.	To self-liquidate in term	

[illegible] FEB 29 1972 [illegible], C.S.B.

6. HOLDBACK & ACHIEVEMENT: Closing of top amount will be conditioned of occupancy of HIC, and of 5,000 sq. ft. of retail area with minimum of $50,000 gross rents.

7. PRE-PAYMENT PROVISIONS: Prepayment in full allowed after expiration of one half of loan term at 105%, declining ½% year thereafter to 1%.

SAN JORGE DEVELOPMENT, INC.

BY: _____

RE: Housing Investment Building
Hato Rey, Puerto Rico

8. REPRESENTATIONS BY APPLICANT:

EV 197

a) Title to subject property will be marketable and insurable.

b) Plans, specifications, contracts, cost breakdowns, appraisals, survey, financial statements and any other pertinent data will be furnished by applicant upon request for your use or for the use of any lender.

c) All fees for appraisals, survey, title insurance, title examination, abstract, legal fees, recordation, tax stamps, acceptance, loan fees or costs will be paid by applicant, in addition to other normal closing costs.

d) Applicant will promptly execute any lender's application and furnish such data, appraisals, and GOOD FAITH DEPOSITS, as required by the lending institution.

e) We will permit you to erect a sign on the property site, at your expense, to indicate that you arranged mortgage financing, and will provide you with a 8" x 10" glossy photograph of the finished building.

f) Applicant warrants current control of the property either in fee ownership, or contract to purchase, or option to purchase, or a leasehold interest, etc., with sufficient time remaining within which to process this loan application to a firm commitment and closing by December 1, 1972.

9. DEPOSIT AND FEES:

a) We herewith deposit with you, in escrow, the sum of $ None as a GOOD FAITH DEPOSIT. Said sum will be refunded without interest in the event that you do not deliver a loan commitment as herein described. In the event you do deliver such commitment, this deposit will be credited against the commissions due you in accordance with our agreement.

b) We agree to pay you a total brokerage fee of one % of the amount of each loan commitment delivered to us, which substantially conforms to the terms and conditions set forth hereinabove, and/or any loan commitment accepted by us. Upon delivery of any commitment as aforesaid, THE GOOD FAITH DEPOSIT may be credited by you towards your total fee and the balance of your total fee, if any, shall thereupon become due and payable.

~~10. We understand that any lending institution financing or offering to finance our loan request may be interested in financing other projects in which we are directly or indirectly involved. Therefore, we agree to pay you a fee as designated in paragraph 9(b), in the event that any such lending institution extends financing within thirty-six months of the date hereof, to us, or to any individual, company or corporation with which we or any of our associates, principals, affiliates, and/or subsidiaries have a direct or indirect association.~~

11. GOVERNING LAWS: The parties agree that the terms and conditions of this agreement shall be construed and governed by the laws of the State of New York, and acknowledge that they have read this Agreement before signing it, and have received an exact copy thereof.

Applicant SAN JORGE DEVELOPMENT, INC. Address Suite G-7 Fomento Bldg.

By: Hato Rey, Puerto Rico

Title: 00919 Zip

Dated: Tel. No. 809) 764 7171

Accepted: Paine, Webber, Jackson & Curtis Incorporated

BY: Title Date:

EV 198

RE: Housing Investment Building
Hato Rey, Puerto Rico

SUBMISSION CHECKLIST
(X) = Items Still Required

X	1.	Plot plan showing site and surrounding streets or highways
NA	2.	Typical apartment plan for each type of apartment showing net leaseable area of each
OK	3.	Typical floor plan (Key Plan) or rental plan if commercial
X	4.	Outline specifications
X	5.	Two street maps of city - Mark one map with site, rent comparables and other points of interest, including downtown area
X	6.	Two aerial photos - Mark one photo with street listings, designation of North, points of interest, major buildings, etc.
X	7.	Specific address of subject property
OK	8.	Site description
OK	9.	Area and neighborhood description
OK	10.	Schedule of income from rents and all other sources including parking, recreation etc.
OK	11.	Itemized expenses (including RE tax details)
OK	12.	Rent & Sales comparables (three) - Must include name of development, address, number of units age, distance to subject, apartment type, area of each apartment type, monthly rental, rental per square foot, amenitites and recreational facilities and comments of location, etc.
X	13.	Itemized cost of construction, including Architects and Engineers, on and off-site improvement costs, actual land costs, and actual cash equities in the job to date
OK	14.	Rendering and elevations
X	15.	Architect's area calculations of building, core areas, public and recreational areas etc. showing all the components, from net leaseable area to gross building area
X	16.	Authorization (attached) with required refundable GOOD FAITH DEPOSIT
OK	17.	List of sponsors and resumes of their previous real estate activity
X	18.	Financial statements of principals and/or guarantors
X	19.	Financial statements of applicant mortgagor corporation or entity latest Basic Equities
X	20.	MAI Appraisal or Feasibility Study
	21.	
	22.	

SAN JORGE DEVELOPMENT, INC.

BY: _____

Morton Cohn EV 199

PAINE
WEBBER
JACKSON
& CURTIS
INCORPORATED

Established 1879 Members New York Stock Exchange, Inc. and other Principal Exchanges
140 Broadway, New York, N.Y. 10005 (212) 437-2121

June 7, 1972

EXHIBIT FOR
IDENTIFICATION

FEB 28 1973

G. I. MOTE, C. S. R.

Mr. Jack Berger,
Executive V.P. - Finance
The Melia Group
30 E. 42nd Street
15th Floor
New York, New York

Dear Jack:

The last thing in the world that I, or my department, or my firm wish to be accused of, or even subliminally thought of, is misrepresentation or deviousness in any form.

As a consequence, we take great pains to go over each and every item of our application with our clients, particularly the items concerning fees and deposits, since these are the ones that hurt the most.

I am sure that you recall my meeting with both you and Pedro in your office the day you signed our Application for Commitment (March 24, 1972) at which time we went over the application item by item after having acceded to a number of changes requested by you and Pedro.

Please note in Item 8(d) on Page 2, a provision whereby the borrower agrees to execute the lender's formal application and to put up any necessary good faith deposits required by the lending institution. This of course is the point that we are now at, and which apparently is causing some confusion, although you had clearly agreed to it at the time.

In Item 9 of our application we spell out the terms of our fee arrangement and the Good Faith Deposit to Paine, Webber, Jackson & Curtis. This is clearly indicated as a refundable deposit to Paine, Webber, later to be applied to our earned commission on approval of the commitment. Nowhere in either section is there any language or indication that the two deposits are related or interchangeable, or that our Paine, Webber deposit was to be applied to the lender's deposit.

.../...

Please note also that wherever we discussed "Good Faith Deposits" we did so in bold capital letters so that there be no missing these important provisions. The fact that Pedro has never paid a Good Faith Deposit to a broker in no way really changes the facts, nor the intent of the application. I can assure you that the great majority of the major league mortgage banking and brokerage firms insist upon a Good Faith Deposit to themselves before taking on any case, and certainly before taking on a case of this magnitude and of this degree of difficulty. As a matter of fact Sonnenblick-Goldman would have required a 1% Good Faith Deposit, while I accepted only a fraction of that amount.

Be that as it may however, my concern now is the approval of our application by FMI and a quick closing and funding of the loan. Even before you advised me of Pedro's reaction and I had already determined to use our deposit to satisfy FMI and requested our accounting department to draw the check for me yesterday.

I regret the misunderstanding and sincerely hope that after you and Pedro have had an opportunity to review the facts as presented above, that you will understand my position as well, and will appreciate the fact that my agreeing to act contrary to the signed authorization will cause me some embarrassment with my firm.

In view of this however, it is most important that there be no further confusion regarding payment of our fee, which will be earned and payable at the time of final commitment approval as spelled out in Item 9(b) of our authorization.

Sincerely

Leonard Wilkes, Director
National Mortgage Department

LW/je
Encl.
cc: Pedro Fullana
Martin Cohen

EV 201

RE: Melia Apartotel
Isla Verde, Puerto Rico

8. REPRESENTATIONS BY APPLICANT:

a) Title to subject property will be marketable and insurable.

b) Plans, specifications, contracts, cost breakdowns, appraisals, survey, financial statements and any other pertinent data will be furnished by applicant upon request for your use or for the use of any lender.

c) All fees for appraisals, survey, title insurance, title examination, abstract, legal fees, recordation, tax stamps, acceptance, loan fees or costs will be paid by applicant, in addition to other normal closing costs.

d) Applicant will promptly execute any lender's application and furnish such data, appraisals, and GOOD FAITH DEPOSITS, as required by the lending institution.

e) We will permit you to erect a sign on the property site, at your expense, to indicate that you arranged mortgage financing, and will provide you with a 8" x 10" glossy photograph of the finished building.

f) Applicant warrants current control of the property either in fee ownership, or contract to purchase, or option to purchase, or a leasehold interest, etc., with sufficient time remaining within which to process this loan application to a firm commitment and closing by

g) Title policy to be supplied by borrower, and legal documents to be supplied and prepared by borrower's attorney subject to approval by lender's attorney, (subject to full approval by lender).

9. DEPOSIT AND FEES:

a) We herewith deposit with you, in escrow, the sum of $50,000 as a GOOD FAITH DEPOSIT, to be deposited by you in the "Paine, Webber, Jackson & Curtis, Incorporated-Special Deposit Account." Said sum will be refunded without interest in the event that you do not deliver a loan commitment as herein described.* In the event you do deliver such commitment, this deposit will be credited against the commissions due you in accordance with our agreement.* and within the authorized time limit.

b) We agree to pay you a total brokerage fee of 1.5 % of the amount of the ~~each~~ loan commitment delivered to us, which substantially conforms to the terms and conditions set forth hereinabove, and/or any loan commitment accepted by us. Upon delivery of any commitment as aforesaid, THE GOOD FAITH DEPOSIT may be credited by you towards your total fee and the balance of your total fee, if any, shall thereupon become due and payable at the time of final approval.

10. We understand that any lending institution financing or offering to finance our loan request may be interested in financing other projects in which we are directly or indirectly involved. Therefore, we agree to pay you a fee as designated in paragraph 9(b), in the event that any such lending institution extends financing within thirty-six months of the date hereof, to us, or to any individual, company or corporation with which we or any of our associates, principals, affiliates, and/or subsidiaries have a direct or indirect association.

11. GOVERNING LAWS: The parties agree that the terms and conditions of this agreement shall be construed and governed by the laws of the State of New York, and acknowledge that they have read this Agreement before signing it, and have received an exact copy thereof.

Applicant Inmobiliaria Melia de Puerto Rico, Inc Address GPO Box 1805

By: [signature]

San Juan, Puerto Rico

Title: Executive Vice-President

00936
Zip

Dated: March 27, 1972

Tel. No. (809) 725-5858

Accepted: Paine, Webber, Jackson & Curtis Incorporated

BY: [signature] Title VP - RE Date: April 3, 1972

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

PAINE, WEBBER, JACKSON & CURTIS, INCORPORATED, Plaintiff,	:	
-against-	:	73 Civ. 2422
INMOBILIARIA MELIA DE PUERTO RICO, INC., Defendant.	:	

Deposition of Defendant, INMOBILIARIA MELIA DE PUERTO RICO, INC., by JACK H. BERGER, pursuant to notice dated September 25, 1973, at the offices of Messrs. Dewey, Ballantine, Bushby, Palmer & Wood, 140 Broadway, New York, New York, on Tuesday, March 5, 1974 at 10:00 o'clock a. m., before Walter Shapiro, a Certified Shorthand Reporter and Notary Public within and for the State of New York.

DOYLE REPORTING, INC.
CERTIFIED STENOTYPE REPORTERS
132 NASSAU STREET
NEW YORK, N. Y. 10038

TELEPHONE BARCLAY 7-6441

A p p e a r a n c e s :

Messrs. DEWEY, BALLANTINE, BUSHBY, PALMER & WOOD,
Attorneys for Plaintiff,
140 Broadway,
New York, New York 10005

BY: KEITH E. McCLINTOCK, JR., ESQ.,
of Counsel.

Messrs. WEISS, ROSENTHAL, HELLER & SCHWARTZMAN,
Attorneys for Defendant,
295 Madison Avenue,
New York, New York.

By: RICHARD F. HOROWITZ, ESQ.,
of Counsel.

MR. HOROWITZ: On the record.

I think we should put on the record that it is all right if my adversary will continue to use the same stipulations set forth at the beginning of the Wilkes deposition.

MR. McCLINTOCK: That is fine.

MR. HOROWITZ: Off the record.

(Discussion off the record.)

J A C K H. B E R G E R , called as a witnes, having been first duly sworn by the Notary Public was examined and testified as follows:

EXAMINATION BY MR. McCLINTOCK:

Q Mr. Berger, would you state your full name and address for the record, please?

A Yes. Jack H. Berger. My residence is at 945 Fifth Avenue, New York, New York, 10021.

Q By whom are you employed?

A I am self-employed right now.

Do you want the name of the company?

Q Yes.

A Multi National Financial Services, Limited.

Q How long have you been self-employed?

A Since January 1st of this year.

Q By whom were you employed prior to that time?

A By the Melia Organization of Spain.

Q How long had you been with Melia Organization?

A Approximately four years.

Q What positions did you hold in the Melia Organization?

A I was a member of the Board of Directors and I was their senior financial officer.

Q Do you continue with your relationship with the Melia Organization now?

A Yes.

Q What is that?

A On a financial consultancy basis.

Q Is this pursuant to a written contract?

A Yes, it is.

Q Do you have any other business affiliations at this time?

A No.

Q Has your activity for the Melia Organization been primarily in the real estate development area?

A In financing their hotels and condominiums around the world.

Q In connection with your activities with the Milia Organization have you had occasion to use mortgage brokers in the past?

A Very seldom. For the most part I went directly to the funding institutions.

Q But you have on occasion?

A Yes, Ihave on occasion.

Q In the United States?

A In the United States, yes.

Q In connection with your use of such brokers have you in fact paid fees to them--

A Yes, we have

Q -- for their services?

Have you entered into written agreements

with those brokers?

MR. HOROWITZ: You mean has he ever or has he always or has he generally or what?

Q Have you ever entered into written agreements --

MR. HOROWITZ: Other than in this situation?

MR. McCLINTOCK: Other than in this situation with Paine, Webber?

A You see, my role is to structure the financing and then all of the documentation normally goes directly from the -- in the few cases we have used brokers from the broker to the people in Spain. I usually get a copy but frankly once I have structured the deal I really don't, in effect follow through on the nitty-gritty. I am fairly sure in those cases where we did use brokers we had some written documentation.

Q Would you retain copies of those documents in the file?

A Yes, I would.

MR. McCLINTOCK: We would like to have those documents, Mr. Horowitz.

MR. HOROWITZ: For all occasions --

MR. McCLINTOCK: Going back for the last three or four years, during the period of the

witness's familiarization with the Milia Organization.

MR. HOROWITZ: Let me just for clarity of the record seek to ascertain how many separate occasions during that period you think that you have used a broker?

THE WITNESS: I would think certainly no more than on two or three occasions.

MR. HOROWITZ: All right, we will take that under advisement.

MR. McCLINTOCK: All right, fine.

BY MR. McCLINTOCK:

Q Are you familiar with the organization called the Apartotel Management Corporation?

A Yes, I am.

Q Can you tell me what that is, please?

A It is a real estate office that was set up in the States by the Milias to sell domesticly their condominiums.

Q When you say domesticly you mean in the United States?

A In the United States.

Q Are you affiliated with that organization?

A I was affiliated with that organization.

Q What position did you hold?

A I believe I was a director of that company.

Q Where was --

A I may have been a secretary or treasurer, I am not sure, but I know I was a director.

Q Where was that company's offices maintained?

A They were maintained in the offices which I have recently taken over at 30 East 42nd Street. They have since moved. They are now at 580 Fifth Avenue.

Q They have been in New York, I gather?

A Oh, yes, they have been in New York for the past two or three years.

Q Is the corporation a domestic corporation?

A I believe it is.

Q Do you know what state it is incorporated in?

A No, I don't.

MR. HOROWITZ: By domestic you meant to imply continental United States as opposed to some territory or commonwealth or foreign country?

MR. McCLINTOCK: Right.

Q I will reframe the question to ask you this: Can you tell me where it is incorporated?

A No, I don't. I don't know.

Q Can you tell me when the idea of an Apartotel in Puerto Rico was first discussed with anybody connected with the defendant?

A No, I cannot because I lived overseas outside the United States until roughly October or November of 1971, which is when I came to this country and I did not get involved with Mr. Cohen or any people related to this Puerto Rician thing until probably December or January-- December of '71 or January of '72.

Q To your knowledge the idea had already been conceived prior to that time?

A Yes, I am pretty sure it was.

Q When you first became involved with it, whom did you speak to with regard to what the plan was at that time?

A Well, I think the way -- let's see, the humble beginnings of my involvement were as follows:

A friend of mine in Spain -- this may seem a little irregular, but this is the way it started. A friend of mine had a brokerage account with your branch on Park Avenue in the 50's, 57th or 56th Street and I went to see the manager of that brokerage office on a personal problem that he had with you people on a

security account. In the throes of talking to the manager he asked me what business I was in and I told him and he said, well, our people downtown might be very interested in doing something with you, why don't you contact them.

Now, I don't recall whether your people called me or whether I called them and I would say this is probably sometime in -- probably December of 1971 and that is the first time I sort of focused in on this Puerto Rician thing.

Q It was in connection with the approaches to Paine, Webber?

A I don't recall whether your people from downtown called me or whether I called them but what really triggered the whole thing was this conversation I had with the manager of your brokerage office on Park Avenue in the 50's, and then shortly thereafter I made contact with Mr. Cohen.

Q With Mr. Cohen?

A Yes.

Q Is it your testimony then that Paine, Webber put you in touch with Mr. Cohen?

A No, no. After I had -- after Paine, Webber and I had made contact with one another about the

feasibility of doing something together in Puerto Rico, since I knew that Mr. Cohen was the principal Melia partner in Puerto Rico, I did it on my agenda that I would call him and all this did was trigger or accelerate my contacting Mr. Cohen whom I had not known prior to my arrival in the United States.

Q I gather that the Apartotel project was not a discussion with Paine, Webber until after you made contact with Cohen, is that correct?

A I don't really recall. I don't really recall.

Q Were you active in attempts to obtain financing for the Apartotel project in Puerto Rico during that period of time?

A No, I was not.

Q Were you aware of efforts to obtain financing for this project?

A I knew that there was a project in hand for Puerto Rico. I had no concept at the time, you know, how far down the road it was nor what efforts had been made nor even who was masterminding the thing but I had just arrived here and, frankly, I was more concerned with just getting my feet wet in the U. S. market place. I was sent up here basically to be a liaison to the financial community on Wall Street and also try to get something

with an American concern. This thing in Puerto Rico was sort of peripheral. It wasn't top priority.

Q To your knowledge who was first approached in connection with efforts to seek financing for this project by the defendant organization?

MR. HOROWITZ: That assumes he has some knowledge.

Q Do you have any knowledge of any approaches made to Paine, Webber or to others with regard to attempts to obtain financing?

MR. HOROWITZ: Could we break that down a bit? I think it is a compound question that may produce a little confusion.

Are you interested, first, in ascertaining facts regarding attempts or approaches that were made before Paine, Webber was approached?

MR. McCLINTOCK: Let's take it that way first.

Q Were there any approaches, to your knowledge, made to others besides Paine, Webber to obtain financing?

A I have no knowledge what took place prior to my contacting Mr. Cohen, which was in, as I said, December or January.

Q When you contacted Mr. Cohen at that time do you know whether other brokers or other institutions

were also being spoken to with regard to this project?

A I have no knowledge of that.

Q To your knowledge the only one contempated at that time was Paine, Webber?

A I don't really know. You see, what I did was, I contacted Mr. Cohen and suggested that we get together and get to know one another. In the course of an introductory meeting I did mention the fact that I had had conversations with Paine, Webber and throughout to Mr. Cohen, I said, "You know, Paine, Webber is a possible vehicle that you or we might want to utilize" and that was basically the sum total of my conversation with Mr. Cohen and it was agreed that we would get together periodically, you know, touch base and discuss Melia and so forth and so on.

Q Did he later get in contact with you with regard to this project, Mr. Cohen, I mean?

A I think that somewheres down the road he did suggest that we contact the Paine, Webber people and see what could be done in connection with this financing, yes.

Q Do you have any recollection as to when you made that first approach to Paine, Webber with regard to the financing?

A You mean over and beyond the initial contact?

Q Yes, the initial contact, that's right.

A It must have been late January or late February.

MR. HOROWITZ: Of '72.

THE WITNESS: Of '72.

MR. McCLINTOCK: I would like to have this document marked as Plaintiff's Exhibit 20. It is a letter from Mr. Berger to Mr. William Smith of Paine, Webber dated January 27, 1972.

...(Letter dated January 27, 1972 from Mr. Berger to Mr. William Smith of Paine, Webber marked Plaintiff's Exhibit No. 20 for identification.)...

Q Mr. Berger, regarding Plaintiff's Exhibit 20 for identification, does this coinside with your recollection --

A Yes.

Q When you made the --

A I forgot about the fact that Mr. Fullana was here. It was either late January or early February that Mr. Cohen said, "Well, why didn't you explore possibilities with Paine, Webber. And I now remember that Mr. Fullana was up here sometime towards the latter half of January and I took advantage of his presence here to come

down with Mr. Fullana to this office.

Q Do you recall speaking with Mr. Smith and Mr. De Saint Phalle?

A I do.

Q Do you recall what the substance of those discussions were with Mr. Smith and Mr. DeSaint Phalle?

A Yes. I think the substance was whether Paine, Webber could in fact come up with the financing needs that Mr. Fullana outlined to them on ourPuerto Rician project. I, frankly, did not have an independent knowledge of the Puerto Rician project and Mr. Fullana who was down there and who in effect was masterminding it locally gave them a dovetailed explanation of what it was all about.

Q Mr. Berger, I show you a document that was previously marked as Defendant's Exhibit A for identification and I ask you if you are familiar with the materials that are referred to in the body of that letter?

A Let's put it this way.

I never seen the financial statement of Basic Equities. If I have seen it I haven't, frankly, gone through it. I may have physically have handled it. I really do recall but I never evaluated the material.

MR. HOROWITZ: For clarity of the record, do you want to establish whether he has ever seen this document or a copy of it before?

MR. McCLINTOCK: Yes.

THE WITNESS: I really do not recall whether I have or I have not seen it and what I am saying if I did see them I did not, frankly, have the time or the interest to evaluate them.

MR. HOROWITZ: Have you ever seen this letter?

THE WITNESS: Oh, this letter?

MR. HOROWITZ: Yes.

THE WITNESS: I may have. I really don't recall.

Q Do you recall what happened immediately following your meeting with Mr. Smith and Mr. De Saint Phalle with regard to further discussions with people at Paine, Webber?

A I think it was agreed that Mr. Fullana and/or Mr. Cohen were to provide the Paine, Webber people with all the necessary background documentation including financials, et cetera, and that Paine, Webber was going to evaluate that documentation and on the basis of that to decide whether or not they could come up with

a financing that would meet the needs of the Apartotel in Puerto Rico.

Q Do you recall the next communication from Paine, Webber with regard to the project?

MR. HOROWITZ: You mean to include oral and/or written?

MR. McCLINTOCK: Oral and/or written.

A No, I do not.

Q I gather you did not speak with Mr. Leonard Wilkes at Paine, Webber at that first meeting, is that correct?

A I do not believe so, no.

Q Do you recall when you were first put in contact with Mr. Wilkes?

A Well, if I recall I think Mr. Wilkes had either just joined the firm or was in the throes of joining the firm when we first made contact here, which may have been the reason that he wasn't in on the first meeting, I don't know. And I would say that we first met or spoke with Mr. Wilkes probably within ten days to two weeks after that initial meeting, I would think sometime --

Q Did you have a meeting with Mr. --

A I don't recall whether it was a meeting or whether

we talked on the phone.

Q Do you recall what the substance of the discussion was that you had with Mr. Wilkes?

A Well, I think Mr. Wilkes indicated to us that in effect he was going to be heading up or was going to be one of the pivotal members of the real estate department. I think he also gave us a broad brush description of his background, in effect trying to sell his capabilities, et cetera and indicated that he would roll up his sleeves and go to work on this.

Q Was an application for commitment discussed at that time?

A I don't recall.

Q Mr. Berger, I show you a letter which has previously been marked as Defendant's Exhibit B for identification, dated March 13th, 1972. It is addressed to you and it is signed by Mr. Wilkes and I ask you if you would mind looking at this for a moment. (Handing.)

Do you recall receiving that letter?

A I am sure I did receive it. I don't recall -- I don't have total recall of having received this letter but I am sure, you know, I have no reason to believe that I did not receive it.

Q Do you recall whether you had had discussions

with Mr. Wilkes prior to the receipt of this letter with regard to the application for commitment?

A I believe we did discuss it on the telephone on one or two occasions.

Q Did you discuss what the terms of that application might be?

A I believe we did.

Q Do you recall what those terms were to be?

MR. HOROWITZ: You mean per the discussion?

Q Per the discussion?

A What we basically discussed on the telephone was mainely the amount of money that would be available, the date of the maturity of the loan, the moratorium on repayment of principal and the debt service, what it would amount to. I was interested in -- really in just the guts of the operation. I wasn't interested in the overall document.

Q Did you discuss what Paine, Webber's fee would be at that time?

A I believe we did.

Q Did you also discuss the question of a good faith deposit?

A I believe we did.

Q Do you recall what the substance of the

discussion on that point was?

A Well, I think that Mr. Wilkes started off by asking somewheres in the neighborhood of one hundred thousand dollars or certainly a figure in excess of what we finally agreed upon, I don't recall whether it was one hundred or one hundred and fifty thousand dollars and I think we whittled it down to, I believe, fifty thousand dollars and it was agreed that the funds would be returned to the respective component -- to the respective principals if the deal was not finalized within, I think it was a thirty-day period. I don't recall. I haven't looked at these documents in sometime.

MR. McCLINTOCK: I have here another copy of a letter of March 13th, 1972 to you from Mr. Wilkes,this time with an attachment.

I ask that the reporter mark this as Plaintiff's Exhibit 21 for identification.

...(Copy of a letter dated March 13, 1972 from Mr. Wilkes to Mr. Berger marked Plaintiff's Exhibit No. 21 for identification.)...

Q Mr. Berger, I would ask you to review for a moment, to review the attached application for the commitment that is part of Plaintiff's Exhibit 21 for identification.

A All right.

Q Does the information set forth in that attachment correspond with your recollection of the terms you previously discussed with Mr. Wilkes on the telephone?

A Well, some of them don't. I think we had agreed that it would be fifty thousand rather than ninety thousand dollars in escrow and I don't recall the forty-five days. I was under the impression we agreed on a maximum of thirty days. The rest of it appears to be in line with what we discussed, yes.

Q Did you at that time contact either Mr. Cohen or Mr. Fullana or others with regards to the terms of the commitment?

A I think if I recall I was very meticulous in keeping them informed and also my people back in Spain for the simple reason that I thought of myself as a conduit on the thing. And while I -- I strongly suspect that what I probably did when I got this was to make photostats and send off immediately a copy to the three parties, namely, Messrs. Fullana, Cohen and Melia, because I am very meticulous about this kind of follow-up.

Q Do you recall what their reaction was to the

term of the application for the commitment?

A I think Mr. Melia's posture was, well, we have to look to Mr. Cohen, since he is a fifty percent owner of the project and the president of the company and since he is in the States and is familiar with the modus operandi up there. I think he sort of threw the ball back in Mr. Cohen's lap.

I don't recall Mr. Fullana's reaction at the time and I think Mr. Cohen's reaction if I recall was that he thought it was on the -- I think -- I think and I am not sure of this, but I believe he thought that the terms were on the high side.

Q Did you receive any correspondence from either Mr. Cohen or Mr. Fullana about that time with regard to the application for commitment?

A I don't think so. I think it was all basically done on the telephone.

Q Do you have any memoranda or notes of any kind that you may have kept regarding those conversations?

A No.

Q After receiving the March 13th letter and the attachment did you then get back in touch with Mr. Wilkes with regard to the application for commitment?

A Yes, I believe I did but I am not sure whether -- you see at some point Mr. Cohen sort of became -- sort of became more active and took over the negotiations. I don't recall whether it was further down the road or whether it was at this juncture. I am not sure whether I went back to Mr. Wilkes or Mr. Cohen at that point took over the negotiations. Frankly, I am not really sure.

Q Can you tell me what particular terms of the application were deemed to be objectionable or unacceptable?

A I remember the escrow had to be put up as a good faith deposit. That was one thing people objected to. I think there was also some basic objection to the rate and, I think, if I recall correctly, for some reason or other the thirty-day period extension in my mind. I think they may very well have objected to the forty-five days rather than the thirty days.

Q Do you recall whether there was ever a meeting with Mr. Wilkes shortly after receiving that letter and attachment?

MR. HOROWITZ: At which he was present?

Q At which you were present?

A I don't recall.

Q Do you know whether there was a meeting involving others with Mr. Wilkes shortly thereafter?

A I think there was.

Q Do you know who would have attended that meeting?

A No. I would assume it would be Mr. Cohen and/or Mr. Fullana.

Q Do you recall whether your objections to certain terms of the application for commitment were resolved to your satisfaction?

A To my satisfaction?

Q Yes.

A Well, I did not know that I was the negotiator in this. I was, as I say, my whole posture on this thing was basically to be an introductory agent to put them together and merely to be a conduit wherever I could. I did not take a forceful position on this for the simple reason that I felt we had a U. S. partner who was able and therefore could carry the ball and, frankly, I was involved in other things which I considered to be much more important.

Q Mr. Berger, I would now like to show you documents that have previously been marked as Defendant's Exbibits C, D and E for identification.

They consist of two letters dated March 27th and March 29th, 1972 from you to Mr. Wilkes and a signed copy of an application for commitment dated March 24, 1972. (Handing.)

I ask you if you would review those papers briefly.

A Yes, I recall the two letters. Yes, I basically recall these documents.

Q Does the application for commitment as signed, which is Defendant's Exhibit E for identification, contain the terms that you and Mr. Cohen and Mr. Fullana had been seeking with regard to modifications of the original proposal by Paine, Webber?

A Well, I would assume if Mr. Fullana signed it, those are the facts, yes.

Q Do you recall discussing the content of this application for commitment and by that I mean Defendant's Exhibit E with Mr. Cohen and Mr. Fullana before Mr. Fullana signed it?

A I don't recall the precise conversation but in all probability I did discuss it with them, yes.

Q Do you recall the substance of those discussions?

A Well, as I say, I really just focused in on

basically the amount of the rate and the terms of repayment.

Is that what you are referring to?

Q I am talking about the entire --

A Frankly I did not read the fine print or get down to the nitty-gritty, because, as I say, I did not think of myself of being a principal in this thing, but I do think that we discussed the amounts and in effect the terms and conditions of the loan; I so recall discussing that.

MR. HOROWITZ: When you said the rate, do you mean the interest rate?

THE WITNESS: Yes, the interest rate.

Q Do you recall ever receiving this document, Defendant's Exhibit E, from Mr. Wilkes?

MR. HOROWITZ: This document, do you mean to include any copy of that as well?

MR. McCLINTOCK: The original is what I am referring to.

MR. HOROWITZ: This physical document, Mr. Berger. (Indicating.)

A I don't recall.

Q Do you recall whether there was a meeting with Mr. Wilkes involving either yourself or Messrs.

Cohen or Fullana prior to the signing of this document?

A With Mr. Wilkes?

Q With Mr. Wilkes.

MR. HOROWITZ: A meeting to discuss the document?

Q To discuss the terms of this document?

A No, I do not recall.

Q Mr. Berger, I would like to call your attention to Paragraph 4 of the application for commitment, Defendant's Exhibit E for identification, regarding what is termed "Other security," particularly I would like to call your attention to the last sentence of that paragraph where it states"the loans will be further guaranteed by Mr. Jose Melia, Senior, Mr. Padro Fullana, and Basic Equities and Development corporation."

Do you recall discussing with Messrs. Melia, Cohen and Fullana the question of the guarantees prior to the time this document was signed?

A I think I did.

Q Do you recall what the substance of those discussions was?

A I was only concerned with Mr. Melia's guarantee and, you know, and told them before anybody could sign

anything that I would obviously have to get Mr. Melia's approval or his signature, which I subsequently did get.

Q Were you able to get Mr. Melia's approval?

A Yes. He said that if the other two principals were willing to give their guarantee that he would give his guarantee as well, indicating that he could not give a corporate guarantee because Spain at that time and still does suffers from inconvertibility and therefore he would have to go to the Institute of Foreign Exchange to be able to give a corporate guarantee, but if the others were willing to give adequate guarantees he was willing to go on the line personally.

Q Had he advised you of this prior to the time that this document was signed?

A I don't recall but it would be logical to assume that he had.

Q Do you recall whether either Mr.Cohen or Mr. Fullana mentioned any problems that they might have by giving the guarantees called for at that time?

MR. HOROWITZ: We are still talking about prior to the execution of this document?

MR. McCLINTOCK: Yes.

A No, I do not recall such conversation.

Q Do you recall ever hearing prior to the

signing of this document whether there might be any problem of the giving of such guarantees?

A Prior to the signing of this document, no.

Q Mr. Berger, I would now like to call your attention to Paragraph 8, little d of this document which appears on the second page and I ask whether this particular provision was the subject of any discussions between yourself and Mr. Cohen and Mr. Fullana prior to the signing of this document.

MR. HOROWITZ: That provision contains more than one thought. Are you asking him about whether there was discussion concerning any of those thoughts or all of those thoughts or what?

Q Let me ask if there was any discussion with regard to the question of the good faith deposits?

A Yes, there was.

Q Prior to the signing of this document?

A Yes.

Q Can you tell me what the substance of those discussions was?

MR. HOROWITZ: I think this is somewhat repetitious. He said that earlier they had wanted more than fifty thousand and they whittled it down to fifty thousand.

A That was the discussion.

Q Did you understand that this provision related to the good faith deposit to be made with Paine, Webber, Jackson and Curtis?

A It is my understanding in effect that you were acting as a conduit to FMI -- when I say you, I mean Paine, Webber, for the fifty thousand dollar deposit, namely, that we were giving you the money, giving Paine, Webber the money and they in turn were going to put that money with FMI to show our good faith.

Q Did you ever discuss this particular provision, the good faith deposit with Mr. Wilkes of Paine, Webber prior to the signing of this document?

MR. HOROWITZ: You mean other than the amount of the deposit?

MR. McCLINTOCK: Other than the amount of the deposit.

A Only in connection with the fact that if the deal did not go through we wanted that money back as quickly as possible, and I think I even -- I think I did suggest to him that we might put it in interest bearing or have FMI put it in an interest bearing account.

Q Mr. Berger, I want to try to clarify the record. I would also like you to look at Paragraph 9

little "a" of this document and I ask whether the good faith deposit referred to in that paragraph was the same good faith deposit as referred to in paragraph 9-d, to your knowledge?

A I believe it is.

Q I am afraid I have forgotten. Was it your testimony earlier that the discussions you had with Mr. Wilkes with regard to the good faith deposit was limited to the amount?

A To the amount that I thought it should be an interest bearing account and, frankly, I was under the impression that these moneys were going to be transmitted by Paine, Webber to FMI.

Q How did you come to have that impression, if you recall?

A I don't know. Maybe I just automatically assumed that FMI were the ones who wanted, in effect, to have physical evidence of the fact that the applicants were really serious.

Q At the time of the singing of this document, Defendant's Exhibit E, were you aware of the interest of FMI in this loan?

MR. HOROWITZ: You mean specifically by name?

MR. McCLINTOCK: By name, FMI.

A Yes, I think I was. In fact, that is the only name that I ever heard Mr. Wilkes mention, yes, I think I was aware.

Q Do you recall when you first heard the name FMI mentioned by Mr. Wilkes?

A I don't recall the exact date but it must have been sometime in March.

Q Do you recall any of the circumstances surrounding your first hearing the name FMI? That might help you refresh your memory as to when that exactly occurred.

MR. HOROWITZ: You want him to tell you what was said about FMI?

MR. McCLINTOCK: Yes.

A I think Mr. Wilkes felt that the peculiarities of this deal in Puerto Rico lent themselves to a real estate trust such as First Mortgage Investors and I think he indicated that one, they were very liquid, two, that they were interested in Puerto Rico and, third, that they were as he referred to them as a swinging organization.

Q Did he indicate to you that he had already made contact with FMI with regard to this specific loan?

A This I don't recall. This I don't recall.

Q Do you recall when you first became aware that FMI had been approached about this specific transaction?

A I don't think I could pinpoint it beyond the fact that I am sure it took place sometime in March. But whether it took place on the date that this thing -- that this document was signed or whether it took place a few days prior to this or a few days after this, I don't recall.

Q Do you recall what you were told by Mr. Wilkes about FMI's interest in this transaction?

A What their interest was?

Q Yes.

MR. HOROWITZ: What you were told about their interest.

A I was told that he seemed -- he thought them peculiarly well suited to do this deal and that he apparently -- he or Paine, Webber, I don't recall which, were very well entrenched with FMI. I think at some point he indicated that Paine, Webber had even taken EMI public or acted as their investment bankers, so there was a very close relationship there. He went a long ways in certainly assuring me that the deal would be

done with FMI.

Q After the application for commitment with Paine, Webber had been signed, do you recall what the next step taken in connection with the transaction was?

A Well, I believe Mr. Wilkes transmitted all of the information plus whatever documentation was submitted to Paine, Webber down to FMI. I think that somewheres -- sometime around then I believe he made a personal visit to FMI, in effect supplementing the presentation of the documentation. I think he wanted to make a personal pitch and came back from that visit, as I recall, sort of exhilarated and reconfirmed that it appeared that as we had a deal with FMI and indicated that he had talked to very senior personnel down there -- I don't recall their names -- and that they seemed to be very much taken by the project and it was just basically a formality that it did have to go to -- I don't recall whether he said the credit committee or the trustees, but that this was basically a formality and he expected the deal to be done.

Q Did he at that time assure you that the deal would be done?

MR. HOROWITZ: I am going to object to the form of the question. If you ask him what he

said, I have no problem with that. But an assurance takes on legal connotations similar to a representation and I think it would be more appropriate to let the court draw the inference from what Mr. Berger and others remember of the conversation.

I will direct him not to answer the question in that form.

Q Do you recall what else he may have said, if anything, other than what you just described?

A No, outside of the fact that, you know, I sort of kept bludgeoning of asking him, you know, are you certain that this thing, if it is in the ballpark and he kept assuring us that he felt that we would get the financing. And the only other concern I had was the time factor and I kept telling him this thing should not drag out too long. I think interest rates were on the way up at the time and I was concerned about the cost of money and we didn't want -- I was also concerned about sort of hanging in limbo for too long a period of time. He assured me he was putting the maximum pressure on them and he expected a fairly quick answer.

Q Were you in frequent contact with Mr. Wilkes after the signing of the application for

commitment?

A I think we may have talked an average of once every ten days or every two weeks, yes, on the telephone.

Q No more frequently than that?

A No.

Q Mr. Berger, I would like to show you a document that has previously been marked as Defendant's Exhibit F for identification. It is a letter of April 28th, 1972 addressed to you signed by Mr. Wilkes of Paine,Webber. I would like to draw your particular attention to the first line of the letter. It starts out with the phrase, "In all the excitement of the past couple of weeks..."

Do you recall what Mr. Wilkes was referring to when he used the phrase in all the excitement of the past couple of weeks?

A No, but I assume he was getting into harness at Paine, Webber. As I say he had joined them I think only a month or two prior to that and I think he had a number of juggling acts in the air and I guess that plus trying to pursue our own project is what he referred to.

Q He goes on to say, "Regarding the active interest in the Melia project."

I would like to specifcally focus you on the

question of whether there was a great deal of excitement or activity with regard to that project that he may have been referring to.

MR. HOROWITZ: If you know.

Q If you know.

A I think I am slightly more perhaps low-keyed than he is and maybe he was excited over this thing, I don't know.

Q But no specific events remain in your mind that he may have been referring to?

A No.

Q Have you had a chance to read the remainder of the letter?

A No, I haven't

Q Would you take a moment to do that, please?

A Sure. (Pause.) All right.

Q First, do you recall receiving the letter?

A Yes, I do.

Q Do you recall what you did with the letter after you had received it?

A I don't but I -- knowing how I operate I am sure, one, I did not sign it, and, two, I am sure I made photostats of the letter and sent them off as I had done previously with other documents to the three principals.

Q Did you discuss with the three principals the possibility of signing this letter?

A No, I don't think I did.

Q Do you recall any discussions at all relating to the question of whether this letter should be signed?

A No, no, I don't.

Q Do you know whether they discussed among themselves the issue of whether this letter should be signed?

A I do not know.

Q Did you ever hear anything from either of the three principals regarding whether or not they did sign this letter?

A I think I did. I think that I heard either from Mr. Fullana or from Mr. Cohen that they had signed the letter.

Q This letter?

A I believe so.

Q Do you recall the substance of the discussion that you had?

A No, I don't.

MR. HOROWITZ: Off the record.

(Discussion off the record.)

Q During the month of April, 1972 and perhaps

going over into May of 1972 were you in communication with Mr. Wilkes regarding additional materials that might have been needed for purposes of processing the application for the loan?

A I probably was. I don't recall the specific conversations nor the specific dates but I probably was.

Q Do you recall the subject matter of the conversations?

A No, because they sort of kept surfacing and I don't know whether it was Paine, Webber or whether it was FMI but periodically with all sorts of requesting additional information and all I did in effect was transmit their requests to the principals involved.

Q Do you recall what items specifically were requested?

MR. HOROWITZ: In April or May?

Q In April of May of 1972?

A No, I don't.

Q Mr. Berger, I would like to show you a document that was previously marked as Defendant's Exhibit G for identification, which is a page of handwritten notes dated May 8, 1972 and has the phrase, "For Jack Berger" at the top of the page and I would

like you to take a look at that for a moment, if you would. (Handing.)

A All right.

Q Do you recall speaking to Mr. Wilkes with regard to the marketing program during this period of time?

A I don't recall specifically, no.

Q Do you recall whether the market program in the exhibit had been provided to the lender by that time?

A I don't recall.

Q Do you recall if the market program was ever provided?

A I am sorry, I don't recall.

Q Item B, the construction contract is the timetable, do you recall any discussion about this topic with Mr. Wilkes?

A I don't recall that either.

Q How about item C?

A That I recall.

Q What were those brochures?

A They just wanted a cross sampling of the sales elements, namely, whatever printed material Melia had and had utilized in the past for the sale and

description of their condominiums.

Q Did you provide those materials to Mr.Wilkes?

A I believe I did.

Q Do you recall when you gave them to him?

A No, but -- no, I don't recall specifcally when I gave them to him but I assume it was given to him within thirty days of the date he requested them.

Q Would you have in your files any correspondence relating to establish when they may have been sent to Mr. Wilkes?

A I really don't know. I will have to go back to Spain to get the brochures or if I had any in my office at the time.

Q I wonder if I could ask if it is not too burdensome to see if there was correspondence?

MR. HOROWITZ: Correspondence between whom?

MR. McCLINTOCK: Mr. Berger and Mr. Wilkes on the one hand and Mr. Berger and Spain on the other.

MR. HOROWITZ: Okay.

Q Moving down the list, the next item is sample offering prospectus.

A Yes, I remember that.

Q What was that?

A The Melias had done an offering here in the State of New York on a Spanish Condominium and I believe I had in my office one or two copies of the prospectus and I believe I did send that shortly after his request to Mr. Wilkes.

Q Item E, it says, sales and performance helps, Melia, Madrid.

Can you tell us what that item is?

A Yes. The Melias have a large condominium in Madrid which had been finished shortly before this request and I think he was asking for the nitty-gritty on this condominium and I believe I did transmit his request for the information to Madrid.

Q Do you recall whether the information came back from Madrid about that time or shortly thereafter?

A I don't recall. I don't recall whether it did or did not, but I assume that it did. Now, whether it went directly to Mr. Wilkes or whether it was funnelled to me and I in turn sent it on to Mr. Wilkes, this I don't recall.

Q Your recollection is that that information was readily available, though?

A I don't know if it was readily available. I think it was made available to Mr. Wilkes. I don't

recall whether we actually had that information in hand at the time he requested it but if it wasn't in hand I am sure it was prepared.

Q Do you have any idea how long it may have taken to get that to him?

A No.

Q Item F says," signed financials - less than six months old."

A I think what Mr. Wilkes was referring to there was, he wanted some financial statements on the Melia organization in Spain and there again I think I transmitted his request to Spain. I don't recall specifically the date on which the financials were given to Mr. Wilkes nor how they were given to him, but I assumed that they were ultimately provided by the Melias.

MR. HOROWITZ: Either directly or through you as a conduit?

THE WITNESS: Exactly. I just don't recall how it was done.

Q What about Item G, plans and specs, do you have any recollection as to what that involved?

A No.

Q Do you know whether anyone else undertook to provide that to Mr. Wilkes?

A No, I do not recall.

Q During the same period of time, April and May of 1972, do you recall discussing with Mr. Wilkes the terms of the proposed loan to be applied for with FMI?

A Not specifically, no.

Q Do you recall whether there were any difficulties of any of the materials that were being considered during that period of time?

MR. HOROWITZ: Difficulties on whose part?

MR. McCLINTOCK: From the standpoint of the Defendants with regard to the terms.

A No, I think the only thing we were all concerned about was the time factor. As I say, if I recall, we started sort of getting down to specifics in late March or early April and I think that by May everybody was getting a little concerned about closing this thing.

Q Mr. Berger, I would like to show you a document which was previously marked as Plaintiff's Exhibit 2 for identification. It is a letter dated May 12, 1972 from Mr. Wilkes to Mr. Fullana and with an indication that a copy went to you. Attached to it is a second letter of the same date from Mr. Wilkes to Mr. Fullana. I would like to draw your attention to the

first letter and would you take a moment to read that and review it?

(Pause.)

A All right.

Q Do you recall receiving a copy of that letter?

A I don't specifically recall receiving it, no.

Q Do you recall discussions with Mr. Fullana with regard to the events referred to in this letter?

A No, I do not.

Q Were there any discussions with Mr. Cohen regarding this? I particularly want to know of any conversation concerning the application with FMI.

A No, I do not recall any discussions with Mr. Cohen.

Q Were you in contact withMr. Wilkes with regard to the application to be submitted to FMI for a loan?

A I think I periodically called him to, you know, to keep myself updated on where we stood and therefore I was concerned primarily with the time factor, so I think I did call him maybe once or twice or three times a week -- a month to ascertain just where we stood.

Q Do you recall any discussion focusing specifically on the question of submitting a formal application?

A No, I do not.

Q Do you recall discussing the question of any delays that were being encountered in connection with this?

MR. HOROWITZ: I am going to object to that on the basis that the way the question is phrased, there is an implicit assumption that there were delays. I think you can rephrase the question.

MR. McCLINTOCK: All right, I will rephrase it then.

Q Do you recall whether there were problems or delays in getting a formal application submitted to FMI?

A No, I do not. I was also under the impression that the delays were on the part of FMI and/or Paine, Webber.

Q Did you communicate with Mr. Wilkes after receiving this letter?

A I don't recall because I don't even recall receiving this letter. Obviously I must have received it because it reflects a copy to me, but I do not recall, one, having received the letter, and, two, having any specific conversations with him during this time period about the letter.

Q What about the second letter attached also dated May 12 from Mr. Wilkes to Mr. Fullana?

A I don't specifically recall receiving this.

MR. McCLINTOCK: I would like to have marked as Plaintiff's Exhibit 22, a copy of a letter dated May 8th, 1972 on the Paine, Webber letterhead addressed to Mr. Pedro Fullana signed by Mr. Leonard Wilkes.

...(Copy of a letter dated May 8, 1972 on the Paine, Webber letterhead addressed to Mr. Pedro Fullana signed by Mr. Leonard Wilkes, marked Plaintiff's Exhibit 22 for identification.)...

Q Mr. Berger, would you take a moment to read that letter.

A Sure. (Pause.) All right.

Q I notice on the second page there is an indication that a carbon copy was sent to you.

Do you recall receiving a copy of that letter?

A No, I do not specifically recall receiving this letter.

Q Do you recall discussing the contents of the letter with Mr. Wilkes about that period of time?

A I may very well have but I don't specifically

recall the conversation.

Q Do you recall any discussions with either Mr. Cohen or Mr. Fullana regarding the terms of the proposed loan with FMI as outlined in that letter?

A There again I may have done so but I don't recall specific conversations.

Q Do you recall whether Mr. Cohen or Mr. Fullana voiced any objections to any of the specific terms referred to?

A I do not have any recollection of that at all.

Q To the best of your recollection, were those terms as outlined in that letter generally acceptable to you and Mr. Cohen and Mr. Fullana?

A Well, as far as the Melias were concerned I reiterate what I said previously. We were in effect putting our ball into Mr. Cohen's and Mr. Fullana's hands and whatever their concensus was we, unless -- we went along with.

Q I also would like to show you,Mr. Berger, Plaintiff's Exhibit 3 for identification, a letter dated May 22, 1972 from Mr. Wilkes to Mr. Cohen, and I ask you to take a moment to review that.

MR. HOROWITZ: For the record, that is the original of which Exhibit B to the complaint is a

photocopy, is that correct?

MR. McCLINTOCK: That is correct.

Q Again there is an indication at the bottom of the letter that a copy was sent to you.

Do you recall receiving a copy?

A I do not recall specifically receiving this letter.

Q Do you recall discussing with Mr. Cohen or Mr. Fullana the question of whether the letter should be signed by either or both of them?

A I do not.

Q Do you recall being informed by Mr. Cohen that he was going to sign the letter?

A I do not.

Q On the second page of this letter, in an indented paragraph marked F headed,"Guarantor's" which indicates Basic Equities and Marles Equities were to be released from any guarantees of the loan.

Do you recall what the problem was with regard to their guaranteeing the loan?

MR. HOROWITZ: I object to the word problem. Why don't you rephrase that to avoid the problem, the problem with your question.

Q Do you recall the reason why basic equities

and Marles Equities were to be released from the guarantee?

A I believe Mr. Cohen indicated to me at some point -- I don't recall whether it was done over the telephone or personally that there was an existing loan at the time with some other funding institution and I am referring now to Basic Equities. Marles Equities I am not familiar with. Basic Equities -- and that that loan precluded their either taking on contingent liabilities or in fact any liabilities of any kind and therefore he could not provide the basic equity guarantee, at which point I told him he better discuss that directly with Mr. Melia in Spain, since this was a pivotal thing and I had no discretion or authority to negotiate this matter with him.

Q Do you know whether he did talk to Mr. Melia about this?

A I believe he did.

Q Do you know if that was by telephone or do you know if he went over to Spain to meet with him?

A I believe it was by telephone.

Q Were you advised as to what the results of those discussions between Mr. Melia and Mr. Cohen were?

A I really don't recall. It would seem logical

that I would be but I really do not recall.

Q Do you recall having any discussions with Mr. Wilkes prior to the date of this letter with regard to the question of who would guarantee the loan?

A I believe I did.

Q Do you recall what the substance of those discussions was?

A Well, there again I think it probably revolved around Mr. Melias guarantee, since I made it a point, frankly, not to get -- not to spill over to the other two gentlemen. I tried to restrict my activities in areas that were directly related to the Melia group.

MR. McCLINTOCK: I would now like to have marked as Plaintiff's Exhibit 23 for identification a copy of a letter dated May 30, 1972 addressed to Mr. Francisco Melia from Mr. Wilkes.

...(Copy of a letter dated May 30, 1972 from Mr. Francisco Melia to Mr. Wilkes marked Plaintiff's Exhibit No. 23 for identification.)...

Q Mr. Berger, if you could take a moment to read that letter.

(Pause.)

I think you only need to concern yourself with the first three paragraphs.

A Right.

Q Does that refresh your recollection at all as to what transpired between Mr. Cohen and Mr. Melia regarding the issue of the guarantee?

A No. I remember the luncheon quite well but I don't -- see, Mr.Melia's --

Q What was that luncheon, if you can tell me?

A Mr. Melia was in town very briefly and I suggested to the Paine, Webber people that it might be both courteous and productive to have them meet Mr. Melia since all their negotiations had been, you know, either with Cohen and Fullana or peripherally with me and they seemed to think this was a good idea, so I think Mr. de Saint Phalle and Mr. -- the first Paine, Webber's man that surfaced, Mr. Smith and Leonard Wilkes and possibly another gentleman were all in attendance gave them a luncheon in this building as I recall at which time Mr. Melia gave them a broad brush picture of where the organization was to go.

I don't remember a specific discussion about the Puerto Rican situation. It was more or less a conceptual and social gathering.

Q Could that luncheon have occurred shortly before the date of that letter, do you think?

A I would think so, yes.

Q Do you recall what was said regarding the Puerto Rican Apartotel situation at that luncheon?

A I think very little. There again Mr. Melia probably triggered from me prior to going to the luncheon and was focusing in on the time factor and I think that reassurances were given that FMI was very, very seriously interested, that it was just a question of weeks or days before this thing would be completed, because Mr. Melia's posture right from the very start has always been that we basically have to depend upon the Fullanas and the Cohens to negotiate this deal.

MR. McCLINTOCK: I would next like to have marked as Plaintiff's Exhibit 24 for identification a copy of a letter dated May 31, 1972 addressed to Mr. Neil Montilla from Mr. Wilkes of Paine, Webber.

...(Copy of a letter dated May 31, 1972 addressed to Mr. Neil Montilla from Mr. Wilkes of Paine, Webber marked Plaintiff's Exhibit No. 24 for identification.)...

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Q Mr. Berger, would you take a moment to read through that letter?

A Yes.

Q Who is Mr. Montilla?

A I don't know. I believe that he is associated with this Berens firm down there but I never met the gentleman and I don't -- frankly, I didn't recall his name prior to this letter.

Q For the record, I note that the letter indicates that a copy was sent to you.

Do you recall receiving a copy of this letter?

A Not specifically.

Q Going to the second paragraph of the letter on the first page there are a number of items referred to as being enclosed in the package, the first of which is the Horwath & Horwath Hotel feasibility study.

Are you familiar with that?

A I am familiar with what Horwath & Horwath does. I probably have a copy or did have a copy in the office. Horwath & Horwath is an accounting firm that specializes in hotels and the Melia organization had used them many times previously when they make their presentation to the funding institutions.

Q Was this feasibility survey regarding the Apartotel in Puerto Rico?

A Yes.

Q Do you recall whether such a study was made?

A Yes, one was made.

Q Do you recall whether you had asked them to make such a study yourself?

A No. I believe that that was arranged prior to my arrival in the States and that is more of an operating thing than a financing thing. You see, the Melia organization was then structured so that you basically had a senior officer in the financial area, namely, myself and a senior officer in the operating end and I did not move into the picture until all the nitty-gritty stuff had been gotten. This must have been ordered from Spain by my operating counterpart long before I arrived in New York City because it usually took anywheres from thirty to nineth days, depending upon how much basic information was available to complete this kind of feasibility study.

Q Do you recall sending a copy of this study to Mr. Wilkes?

A I know he received a copy. I don't recall whether I was the one who forwarded it or whether he got it directly from Spain or from one of the other principals. I do know he had a copy.

Q Do you know when he received it?

A I don't recall, no.

Q The next item referred to is a Pedro A. Pons appraisal. Do you know what that was?

A I think that refers to what is known in the trade as a quantity appraisal. In other words, they go over the entire project and adjust the cost projections in line with the existing market place on specific items such as steel, concrete. In other words, you first -- the Melias usually make their own in-house projection of cost and then to double check themselves they usually take on an outside quantity appraiser who updates their report and makes sure that there have been no lapses.

Q Do you recall when this appraisal was prepared?

A No, I do not. There again this was probably requested by my then operating counterpart.

Q Who was your operating counterpart?

A A man by the name of Manuel Coranado.

Q Is he located in Puerto Rico?

A He is located in Madrid.

Q Do you recall sending a copy of this appraisal to Mr. Wilkes?

A I do not.

Q The next refers to an item called Engineering

Quantity Takeoffs. Do you know what he is referring to?

A No, I do not.

Q And then cost estimates?

A There would appear to be a redundancy there between Pons's appraisal and the cost estimates. I don't know. This is all very technical nitty-gritty which I am not familiar with.

Q He next refers to some financial statements. Do you recall sending Mr. Wilkes any financial statements on the date of this letter?

A I don't recall specifically, but in all probability I was the one who sent him the Melia financial statements, if that is what he is referring to. If he is referring to Fullana or basic equities he would have received them directly from those principals.

Q Would you by any chance have copies of the cover letter to Mr. Wilkes somewhere in your files, if in fact you did send these materials directly to him?

A I don't recall. I can certainly double check.

Q I ask you to do that to see if there is such a letter.

MR. HOROWITZ: A cover letter for Melia

financials, all right.

Q Or any financial statements that may have been sent to Mr. Wilkes by you?

A I think Mr. Wilkes would have them, wouldn't he, if I had sent the letter. One of the problems I have is a practical problem. Since I have taken over my own firm I have packaged all of their stuff.

MR. HOROWITZ: We will take it under advisement. We will have to see how difficult it would be to look for it.

THE WITNESS: I will look.

MR. McCLINTOCK: For the record, our document request calls for a number of things that may well be in Mr. Berger's files.

Did you look through Mr. Berger's file in connection with this?

MR. HOROWITZ: No, we have not for the reason he has mentioned. We have searched the files in Puerto Rico and we have searched Mr. Cohen's files. I would assume that there is nothing additional in Mr. Berger's files, especially in light of his comment that his invariable practice was to make copies of everything and funnel it on to Fullana and Cohen, so I

assume that anything he had they have, but we will see what the state of Mr. Berger's files are.

THE WITNESS: It is all packaged. It has all been, in effect, put away.

MR. HOROWITZ: We will take that under advisement, with you appreciating what the problem is.

MR. McCLINTOCK: Fine.

BY MR. McCLINTOCK:

Q Mr. Berger, do you recall the question of a good faith deposit having to be made with FMI arising during the period of late May and early June of 1972?

MR. HOROWITZ: You mean as opposed to or in addition to the good faith deposit that was given to Paine, Webber?

MR. McCLINTOCK: I will rephrase my question.

Q Do you recall whether FMI was asking that a good faith deposit be made with it in connection with the application for a loan?

A Oh, I was always under the impression that the original fifty thousand dollars that we gave Paine, Webber was forwarded down to FMI and I believe that

there was a point, and I don't recall the exact time framework, at which the checks were sent back to me and I in turn passed them on to the respective principals and then another fifty thousand dollar check was issued subsequently, but in replacement of the first fifty thousand dollars.

Q In that regard I would like to show you items that have previously been marked as Plaintiff's Exhibits 4, 5 and 6 for identification. These are three separate letters all dated June 7, 1972, two of which were signed by Mr. Wilkes of Paine, Webber and one is signed by you addressed to Mr. Wilkes, if you would take a moment to review those and refresh your recollection.

A Sure. (Pause.) I doubt very much if I ever signed an application for a commitment.

MR. McCLINTOCK: Off the record.

(Discussion off the record.)

(Recess.)

BY MR. McCLINTOCK:

Q Mr. Berger, have you had an opportunity to review those three exhibits that I handed to you?

A Yes.

Q Does that refresh your recollection as to

what transpired with the deposit to be made in connection with the FMI application?

Perhaps we can start at the beginning. Apparently this question came up for active discussion during late May or early June, based on those exhibits. Is that generally your recollection as to when it was?

A I think so. I am trying to recall. I think that Mr. Fullana objected to our having to put up a good faith deposit.

Q Objected to whom, do you recall?

A I think he voiced an objection to both Mr. Wilkes and myself.

Q Was this at a meeting with Mr. Wilkes and yourself?

A It may very well have been.

Q Would that meeting have taken place here in New York?

A It must have, yes, it must have been in New York.

Q Did that meeting occur on or about the dates of these documents that you just read?

A It probably did.

Q Do you recall what else was said at that meeting by Mr. Fullana?

A No, I do not.

Q Or by Mr. Wilkes?

A No, I do not.

Q Do you recall what Mr. Wilkes's reaction to Mr. Fullana's statement was?

A Well, I think his reaction was that Mr. Fullana was incorrect, that it was traditional to put up a good faith deposit and that is the way Paine, Webber worked.

Q Do you recall how Mr. Fullana responded to that?

A I don't recall what Mr. Fullana's response was.

Q Was there a resolution of the question at that meeting?

A I don't believe so.

Q Do you recall what happened after that meeting with regard to this question of the deposit?

MR. HOROWITZ: You mean other than the exchange of this correspondence and other materials that are reflected in Exhibits 4 through 6 inclusive?

MR. McCLINTOCK: Right.

A I believe that Mr. Fullana and I had had a lengthy

discussion probably in a cab or in my office about this.

Q Do you recall what the substance of that discussion was?

A Namely that he did not feel that one had to put up a deposit and he claimed that he had never done so and he is a mortgagor and he indicated he had a lot of expertise in this area and therefore he was surprised by Paine, Webber's request.

Q Were you surprised by Paine, Webber's request?

A No.

Q Has it been your experience that such good faith deposits are required in connection with applications?

MR. HOROWITZ: Required by whom, the broker or the lender?

MR. McCLINTOCK: Required by the lender.

A The Melias have never put up a good faith deposit with any lender but I do know that it is often done and therefore the fact that we had not done it in my mind did not mean that this was -- that this was an unreasonable request.

Q Has it been your experience that brokers require good faith deposits --

A No.

Q -- as a general matter?

A No.

Q Other than Paine, Webber has any other broker required a good faith deposit?

A None.

Q Were you in communication with Mr. Wilkes by telephone immediately before the sending of these letters that you just looked at?

A I probably was.

Q Do you recall how it was agreed that the fifty thousand dollars that had earlier been given to Paine, Webber would be sent back to the defendant with new checks to be issued and made payable to FMI's agent?

A No, I do not recall the rationale behind that, no.

Q Do you recall the sequence of events that led up to that?

A Well, I think it was -- I think that I was the one who convinced Mr. Fullana and possibly Mr. Cohen, though I don't really have lucid recollection of having talked to Mr. Cohen, that a good faith deposit was not an unusual request but that I did feel that the good faith deposit, if it were going to be put up, should be put up

with the funding institution and not with the broker, since we, the Melias, have never made any deposits to any brokers that we had dealt with.

Q Had you earlier objected to the idea of giving a good faith deposit to Paine, Webber?

MR. HOROWITZ: I think that his testimony was that Paine, Webber was to be a conduit for the deposit to pass through Paine, Webber to the lending institution, so to ask him whether he had objected to giving a good faith deposit to Paine, Webber without clarifying the question with his earlier testimony in mind I think is somewhat misleading.

MR. McCLINTOCK: I will withdraw the question.

A Basicly my feeling about brokers is that they should get paid and they should get funds in hand when they have accomplished what they set out to accomplish. They are not a commercial bank. I don't see why they should have free funds.

Q Going back for a moment now you indicated that you recall persuading Messrs. Fullana and Cohen to give a good faith deposit to a lending institution in connection with an application.

Do you recall how it came about that the checks that had previously been given to Paine, Webber were then sent back to the three principals of the defendant?

MR. HOROWITZ: Wait a minute. Just for the clarify of the record I do not believe that the actul physical checks were given back. I think it is rather clear that Paine, Webber issued its own check -- three checks, I should say -- to the three principals and photocopies of those checks are annexed to Plaintiff's Exhibit 4.

So as I gather the circumstances, three checks were originally given to Paine, Webber, they were apparently deposited, and then at the time of the June 7th letter three checks on the account of Paine, Webber were issued.

MR. McCLINTOCK: I think that is correct.

Q Do you recall how that came to be?

A Well, I don't recall specifically, but I suspect that what may have happened is that I may have called Mr. Wilkes and said, look, I think I have convinced the non-Melia principals to put up their prorata share of the good faith deposit but they will only do so if the funds are held by the future lending institution, rather than by Paine, Webber, and I think I explained to Mr. Wilkes

why I didn't think Paine Webber had the right to hold those funds.

Q Did you have more than one discussion with Mr. Wilkes about this time regarding this?

A I don't recall.

Q Looking at Plaintiff's Exhibit 6 and also at Plaintiff's Exhibit 5 which apparently is your letter in response to Mr. Wilkes's letter, were these letters exchanged after your discussions with Mr. Wilkes with regard to getting the fifty thousand dollars from Paine, Webber?

A I don't recall.

MR. HOROWITZ: For the record, they are dated the same date as Plaintiff's Exhibit 4 and therefore it probably was.

THE WITNESS: I really don't recall.

Q Was anyone else involved in these discussions with Mr. Wilkes besides yourself?

A Mr. Fullana.

Q Where did these discussions take place? Were they on the telephone or were they in person?

A Which discussions are you referring to? The initial one in which Fullana objected?

Q That I believe you testified was a meeting.

A Yes, here I believe in this office -- in Paine, Webber's offices.

Q Your later discussion with Wilkes with regard to the fifty thousand that had been given to Paine, Webber --

A I think they were all on the telephone.

Q On the telephone?

A Yes.

Q And Mr. Fullana was also involved in those conversations?

A No, I don't believe he was. He used to come up here for very abbreviated trips and he was very apprehensive about catching the evening plane back to Puerto Rico and I strongly suspect that he was not present.

Q In your letter of June 7th to Mr. Wilkes you indicate --

MR. HOROWITZ: This is Plaintiff's Exhibit 5, I believe?

MR. McCLINTOCK: That is correct.

Q I will read the first sentence, "I am in receipt of your letter dated June 7th and have taken careful note of the contents."

What specifically in his letter to you of

June 7th, which is Plaintiff's Exhibit 6, did you have in mind when you m ade that statement, if you recall?

A I just think I was, you know, that I was assuring him that, you know, that I had read his letter and that I was aware of his sort of supposed pained posture. It was more of a calming letter than anything else. Mr. Wilkes at times did tend to magnify situations and I was just in effect trying to calm his ruffled feathers.

Q Did you discuss with him in your conversations that led up to this exchange of letters the terms of the application of the commitment with Paine, Webber, which is Defendant's Exhibit E, the application dated March 24th, 1972?

A I think I discussed -- I repeat again -- the terms that directly related to the loan itself. I don't think I discussed any of the printed material because I really wasn't involved nor concerned with the fine print. I was just interested in the guts of the operation.

Q I am talking now about the conversations that you had with him that you indicated were on the telephone with Wilkes and Fullana.

Do you recall whether he referred to the terms of that particular document in the course of

those telephone conversations?

MR. HOROWITZ: By the particular document you mean Defendant's Exhibit E?

MR. McCLINTOCK: Defendant's Exhibit E, right.

A No, I don't recall. I don't recall that.

Q Do you have any recollection of any other statements that he may have made on this issue about that time?

MR. HOROWITZ: Which issue is this?

Q This is in connection with the deposit once again.

A You are talking about Mr. Wilkes?

Q I am talking about Mr. Wilkes in the course of your discussions with him after your meeting with Mr. Fullana.

A I think he reiterated that, one, the fifty thousand dollar deposit was small in terms of the overall -- of the aggregate amount of financing that we were seeking, that, two, putting up a good faith deposit was both a reasonable and traditional request and that he expected us to do so.

Q Do you recall a conversation in which he agreed to have Paine, Webber issue checks in the total

amount of fifty thousand dollars to be sent back to the principals of the defendant?

A I don't recall his specifically agreeing to. I just had the overall feeling that he had about my argument or concept that if we were going to issue a good faith deposit that it should rest with the funding institution and not with the intermediary, but I don't recall his specifically agreeing to it. I just had the feeling from the conversation that he was not violently opposed to what I had said.

Q Going back for the moment to the question of the guarantees, I would like to show you what has previously been marked as Defendant's Exhibit I for identification, a memorandum from Mr. Wilkes to Mr. deSaint Phalle, and I ask you if you would read that. (Handing.)

Is Mr. Wilkes description of the question of how to handle the guarantees more or less accurate as best you can recall?

MR. HOROWITZ: Hold on just a second. This talks about a meeting of June 8th in Coral Gables. I don't know that we have established or that the memorandum even suggests that Mr. Berger was there or has first hand knowledge of what went on.

Q I gather you were not at that meeting, is that correct?

A No, I was not at the meeting.

Q Did anyone report to you what had occurred at that meeting?

A I knew the meeting was taking place and I believe that Mr. Leonard Wilkes did call me within a reasonable period of time after the meeting to include me in on what had taken place.

Q Did you speak with either Mr. Cohen or Mr. Fullana at that meeting about what had happened at that meeting?

A I don't believe so.

Q So your information about the meeting would have come from Mr. Wilkes, I gather?

A Right.

Q In so far as the question of the guarantee and the effect of certain problems with regard to Spanish law on what the Melias could do in that connection, is what Mr. Wilkes states in this memorandum more or less accurate, to the best of your recollection?

MR. HOROWITZ: Wait a minute. Where are you referring to?

MR. McCLINTOCK: In a number of places

in Exhibit I Mr. Wilkes describes various reasons why, according to him at least, the guarantees are being handled in the manner in which they are and in a number of places he refers to restrictions placed by Spanish law on certain assets of the Melias.

Q My question basically is this: Were you involved in the discussion with Mr. Cohen, Mr. Fullana and Mr. Wilkes with regard to what guarantees could be made by the Melia organization?

MR. HOROWITZ: Under Spanish law?

Q Both under Spanish law and also in connection with what could be done under the circumstances?

A I was not involved in the discussions that related to this meeting or that surfaced as a result of this meeting. As I had testified earlier, going back two or three months, I did point out to all concerned that there was inconvertibility in Spain and therefore the Melias were not in a position to provide a corporate guarantee and also that Mr. Melia's personal assets were in Spain.

Q In other words, this was a situation that had existed all along with regard to any guarantees coming from Mr. Melia or the Melia organization?

A Yes. I don't believe there had been any change.

Q In the last paragraph of the memorandum before Mr. Wilkes's signature on page two, it states that Mr. Cohen has agreed to put up Melia's share and will accept certain cross guarantees and assurances from Melia.

Do you know what he is referring to there?

A Well, those conversations were not held with me. They must have been held directly with Mr. Melia in Spain because this is the kind of item which I could not speak for Mr. Melia on. I can give you what my reading is of what he is saying.

Q If you were not personally involved in this conversation --

A No, I was not personally involved.

Q -- we do not have to proceed with this.

The resolution of the question of who was going to guarantee the loan was done while you were not present, is that correct?

A That is correct.

Q Just for the record, Mr. Berger, I would like to show you Defendant's Exhibit J for identification and Plaintiff's Exhibit 7 for identification and ask you if you had ever seen either of these two

documents before or copies of them?

MR. HOROWITZ: J includes a handwritten note and a typewritten attachment..

Are you asking him whether he has seen either or both or just what?

MR. McCLINTOCK: Either or both.

A I really don't recall, frankly, whether I have seen this or not.

Q Plaintiff's Exhibit 7 is the original of what is --

MR. HOROWITZ: It is Exhibit C to the compla and a copy of it is also attached to Exhibit .

MR. McCLINTOCK: That is right.

A In all probability I did see this but I don't specifically recall this particular document.

Q Was there any discussion between yourself and Mr. Cohen or Mr. Fullana about whether that document, and I am now referring to Plaintiff's Exhibit 7, should be signed?

A No. If there had been I would have remembered it. As I said previously Mr. Cohen and Mr. Fullana became increasingly more active in these negotiations and I became increasingly less active, so that from

sometime in May on I really, for all intents and purposes was on the outside looking in.

MR. McCLINTOCK: I would now like to have marked as Plaintiff's Exhibit 25 a copy of a letter dated June 28th, 1972 from Mr. Berger to Mr. Cohen, attached to which are Xerox copies of three checks totaling fifty thousand dollars.

...(Copy of a letter dated June 28, 1972 from Mr. Berger to Mr. Cohen and Xerox copies of three checks marked Plaintiff's Exhibit No. 25 for identification.)...

Q Do you recall sending that letter to Mr. Cohen?

A I do.

Q Do you recall what you were referring to in the fourth paragraph here when you say you spoke with the National Bank of North America regarding a one year LC?

A Letter of credit.

Q Amount to one million five hundred thousand dollars. Was this to be a part of the arrangement with respect to the guarantee, a letter of credit?

A Yes. Mr. Cohen had called me to tell me that the FMI people and/or Berens required additional collateral

guarantees and that it had been suggested to him and I don't recall who it was that made the suggestion, that letters of credit -- irrevocable letters of credit be put up. And as he asked me, Mr. Cohen asked me whether I could help him in generating these letters of credit, I responded by telling him that the only bank that I thought might be interested, because of the goodwill that the Melias had with them, was the National Bank of North America and I would touch base with them and see if I could arrange this for Messrs. Cohen and Fullana.

Q The next paragraph refers to the personal guarantees that apparently Mr. Cohen wanted the Melias to sign. Was this something as between Mr. Cohen and the Melias only as backup to the guarantees that were given?

A Yes. This is what we refer to as cross guarantees. In effect what Mr. Cohen was doing was picking up ostensibly with regards to FMI the Melia prorata share of the guarantee and therefore he wanted a back to back guarantee from the Melias.

Q In the last paragraph on the first page you refer to equity in the defendant and you again talk about the need for clearance with the Spanish Institute

of Foreign Exchange.

Had Mr. Cohen again raised the question of whether Melia's equity participation in the defendant could be pledged?

A Yes, I think that Mr. Cohen had wanted the Melias to pledge their equity in the Puerto Rician project as a back to back guarantee with him.

Q With regard to the application for the loan that was in fact submitted to FMI, I would like to show you documents that have previously been marked as Defendant's Exhibit K for identification and also Plaintiff's Exhibit 8 for identification. Apparently the only difference between the two exhibits is that on Defendant's Exhibit K there is a stamp stating received July 7th and, also some indication some copies having been sent to someone and Plaintiff's Exhibit 8 has attached to the Xerox copies of three checks totaling fifty thousand dollars paybale to Berens Mortgage Bankers, Inc.

Mr. Berger would you take a moment to review those quickly?

A Yes.

Q Do you recall whether you saw the application form before it was submitted by Mr. Cohen?

MR. HOROWITZ: You mean signed by Mr. Cohen?

MR. McCLINTOCK: Signed by Mr. Cohen.

A I must have because this is the stamp that we use in our office and this is my writing.

Q It is?

A Yes.

MR. HOROWITZ: That being at the bottom of Defendant's Exhibit K?

THE WITNESS: Right.

Q To the best of your knowledge the terms specified in this application would have been acceptable to all the principals of defendant had it all been approved in that form, is that correct?

A When you are talking about the terms you are referring to the terms applicable to the loan or to the terms and conditions spelled out in this document?

Q The terms and conditions spelled out in this document.

A I am not familiar with the certification and this other stuff but as far as the amount, the cost of the money, the maturity and the repayment, I would say they were acceptable. The guarantees, we know what the problems were.

MR. HOROWITZ: For the record, the form as

it is attached to Exhibit K also contains the handwritten notation CC Martin Cohen file, Francisco Fullana, which does not appear in the form as attached to Plaintiff's Exhibit 8.

Q Is that what Mr. Horowitz just referred to, Mr. Berger, is that your writing?

A Yes, it is.

Q After the submission of that application, what next transpired in connection with the loan application?

A Well, we sat and waited.

Q Was there any word of any kind from FMI or any requests for additional information which came shortly thereafter?

A No. The Paine, Webber people sort of insulated FMI from direct contact with any of the principals, which I was not surprised by nor angered by because this is pretty much the traditional role of the brokers and we -- I guess Mr. Cohen and Mr. Fullana and myself periodically touched base with Mr. Wilkes to ascertain how the matter was proceeding and we got repeated assurances that it was at the last stage of the finalization.

Q Mr. Berger, I would like to show you a sheaf

of documents stapled together previously marked as Defendant's Exhibit P for identification. The handwritten note at the top bears the date of October 3, 1972. I would like to call your attention to two letters contained in this package, one dated August 18th, 1972 addressed to Mr. Wilkes from a Mr. Callantine and the other from Mr. Wilkes to Mr. Melia dated August 22nd, 1972. I ask you to take a moment to read those two letters.

A Sure.

Q The letter of August 22nd from Mr. Wilkes to Mr. Melia there is an indication that a copy went to you.

Do you recall receiving a copy of that letter?

A Yes, I do.

Q Did you at the same time receive a copy of the August 18th letter to Mr. Wilkes from Mr. Callantine?

A I believe I did.

Q Was this the first request for additional information from FMI that you were aware of after the submitting of the application in July?

A Well, as I say way back there had been this periodic request for information but this is the first

time that they had requested specific details on sales strategy, in other words, the stuff that is referred to in one, two and three.

MR. HORROWITZ: One, two and three being in the letter of August 18th, 1972 from Callantine to Wilkes.

MR. McCLINTOCK: Correct.

A (Continued) which created surprise and which created certain consternation amongs us.

Q Who is that?

A Messrs. Fullana, Melia, Cohen and myself.

Q Did you have any discussions concerning this?

A Yes.

Q What was the substance?

A The substance was from the reading of this letter. We were not as close as finalizing the deal as Mr. Wilkes had repeatedly indicated to us and we were a little surprised that after having been in negotiation in essence with FMI for, I don't know, was it three, four, five months that they should suddenly surface with something that was as gutty and as essential as that referred to in the letter of August 18th to Mr. Wilkes.

Q Did you speak to Mr. Wilkes upon receipt of these two letters?

A I believe I did.

Q What was the substance of the conversation you had with Mr. Wilkes?

A Precisely what I just told you.

Q What did he tell you with regard to this August 18th, 1972 letter?

A I believe that he stated that, you know, these things happen and he was as surprised as we were and he reassured me that, you know, it was on the point of being finalized and he regreted all the delays and that there was really very little that he could do about it.

Q Was an attempt then made to get this information and material put together and sent on to FMI?

A Yes.

Q Did you handle that yourself or was that done over in Spain?

A The material was gotten in Spain. Whether I needled them to get the material or whether I passed on this information, I don't recall, but the information was gotten together in Spain.

Q Do you recall how long it took to get it

over here?

A No, I don't.

MR. HOROWITZ: I think there is a document that has been previously marked that will refresh his recollection.

Q I would like to show you Defendant's Exhibit Q for identification, a letter dated September 26, 1972 and attached to it appears to be your business card with some handwriting on it.

A I would just like to point out this is an inaccurate description of my area of influence. I was not in charge of the western hemisphere marketing operation. In fact I had nothing to do with marketing.

Q Does this refresh your recollection as to when you received the material referred to in the Callantine letter of August 18th?

A Yes, I think -- yes, I think it was received on or about September 20th to 26th.

Q Is that your business card that is attached to that document?

A It is.

Q Is that your handwriting?

A It is.

Q Do you recall in fact having a meeting in

Coral Gables?

A No, I never went to Coral Gables.

Q Do you recall when you were first informed that FMI had rejected the application?

A I have the feeling it was some time in early October, the first half of October.

Q I would in connection with that refer you to another letter attached to Exhibit P, I believe, the last letter in the stack which is dated September 28th, 1972 from Mr. Callantine to Mr. Frame.

A All right.

Q Who informed you that FMI had rejected the application?

A Mr. Wilkes.

Q Did he speak to you by telephone or did he meet with you personally or did he write you a letter?

A I am not slightly clear about this but I believe he first informed me by telephone and then he may have very well have subsequent to the telephone met with me at my office, but I am not absolutely sure about that.

Q Do you recall the substance of the conversations you had with Mr. Wilkes with regard to that rejection?

A He tried to -- well, first of all obviously he

was as pained, I guess, as we were and as surprised as we were and said that he had been given assurances that the deal was concluded and was terribly sorry that this thing had fallen apart.

Q Did you have any discussions with Mr. Wilkes about seeking out other sources of financing for the project in Puerto Rico?

A No. By this time we were increasingly disillusioned with Mr. Wilkes actions and by this time I had personally decided that perhaps he tended to be a little -- perhaps he tended to allow his enthusiasm to get in the way of objectivity and I was, I felt, frankly, that more than enough time had elapsed. We had provided him with everything that he had requested. We had, you know, weighted ourselves too much in his direction and I then felt that I could probably go out and do as good a job as he did.

Q Did you give Mr. Wilkes any instructions about what to do in the future with regard to this matter at that time?

A No. I just told him that I hoped the Melias -- I made a very elastic and broad statement and said that I hoped we would find some other community of interest in the future and that was the way it was left.

Q Did he communicate with you after that with regard to any other efforts he may or may not have made seeking additional financing?

A No.

Q Did you or any of the other principals in the defendant then begin to seek other financing for this project?

MR. HOROWITZ: Me. Berger wasn't a principal.

MR. McCLINTOCK: Or any principal I should say.

A Yes, I think at that point we were all quite worried because our credibility was on the line. I think about that time interest rates started to increase and we had a lot of money invested in this project and we had in effect wasted close to six or seven months, so I think that both Messrs Fullana and Cohen more than myself started to actively seek other lending sources.

Q Do you know who they spoke to in that connection?

A Well, I know they spoke to HIC, I know that for a fact, because I was present at one of the meetings.

Q What meeting was that?

A The meeting that was held in New York at the

Regency Hotel.

Q Do you recall the date of that meeting?

A No, I don't.

Q Do you recall approximately when that was in point of time?

A I don't recall.

Q Who was present at that meeting?

A Just Mr. Yates, Mr. Cohen and myself.

Q Do you recall the substance of the discussions that took place at that meeting?

A Well, yes. Mr. Cohen in effect blueprinted our needs for the Puerto Rician project. I think some mention was made of the Paine, Webber situation.

Q What was said with regard to the Paine, Webber situation?

A Mainly that we had sat with Paine, Webber for roughly six months and we thought we had this financing structured and that at the very last minute, after providing their lending institution with all the information they wanted, we suddenly were hit between the eyes with this "no". I think that Mr. Cohen's approach was that Mr. Yates would ultimately find out anyway so why not feed him the information directly than having him find out through a third source, and at that

point he said -- he outlined our financing needs in Puerto Rico.

Q What did Mr. Yates say with regard to the financing needs? Did he indicate interest?

A With reference to financing needs?

Q Yes.

A Yes, he did.

Q Did he request you to submit an application for a loan?

A He didn't request anything of me. The only thing he requested of me was that I give him a comprehensive story on the Melia group which I did and then he said he would discuss this entire matter with Mr. Cohen in Puerto Rico after he had done some investigative work and that was the sum total of our conversation.

Q Were you involved in further negotiations with Mr. Yates with respect to that loan with HIC?

A No, I had no further negotiations with Mr. Yates.

Q Were you kept informed by others as to what happened with regard to the HIC loan?

A I don't think I was kept minutely informed of the continuing negotiations. I was told of when they came to an arrangement with HIC.

Q Do you recall whether a broker was involved

in the HIC transaction?

A I believe there was a broker involved.

Q Mr. Berger, I would like to show you documents that were marked previously as Plaintiff's Exhibits 9, 10, 11 and 12 for identification and ask you if you would take a moment to review them.

(Pause.)

Do you recall whether Mr. Otero was in fact the broker?

A First of all I have never seen these documents before.

Q You haven't?

A Never, either the check or the documents.

Secondly I have never met Mr. Otero or had any conversations with him.

Q Do you know how Mr. Otero came to be involved in this project?

A Not specifically. I was just told that he was a -- that he was in Puerto Rico, he was an active broker, a reputable broker and that I believe he knew Mr. Cohen's representative in Puerto Rico and also knew Mr. Yates.

Q Do you know when Mr. Otero became involved in this?

A No, I don't.

Q Do you know whether a written application was ever submitted to HIC in connection with the loan?

A I do not.

Q I would like to show you a copy of a document previously marked as Plaintiff's Exhibit 1 for identification. This is, I believe, just a copy.

MR. HOROWITZ: I have the actul one that was marked if you would like to show him that one.

MR. McCLINTOCK: All right, why don't we do that.

MR. HOROWITZ: This is the actul document rather than the copy. (Handing)

Q Do you recall having seen that document befor

A Yes, I have.

Q I call your attention to the attachment I believe at the back, the last four physical pages of the total exhibit which is apparently a guarantee of the obligation. It appears to have been executed by Basic Equities and Development Corporation.

Do you know whether or not that is Mr. Cohen's firm?

A To the best of my knowledge it is. It belongs

to the Cohen family, to the best of my knowledge.

MR. HOROWITZ: I believe Mr. Cohen so testified.

Q Do you recall discussing the question of the guarantee of this loan obligation by Basic Equities prior to the execution of this document?

A The only discussion I had with him was in connection with -- there were two areas. One was the one that related to that comapny's inability to give a guarantee because we were talking now about FMI.

MR. HOROWITZ: He is addressing his questions to the guarantee as it relates to HIC.

A (Continuing) I had no conversations with Mr. Cohen or Mr. Fullana in connection with this document. It was given to me a fait accompli.

Q So you have no knowledge how it came to be that Basic Equities was able to guarantee this loan?

A No.

Q Do you know whether any efforts had been made to secure financing for the Puerto Rician project prior to the approach to Paine, Webber?

MR. HOROWITZ: I think the witness already testified to that, that he was not to be offensive, but a johnnie-come-lately to the scene

and did not know what had transpired prior to his arriving on the scene from Europe.

A Probably in December or January because that is when I first made contact with Mr. Cohen.

Q You were never later informed of any other attempts to obtain financing that occurred prior?

A No, I don't think I was.

MR. McCLINTOCK: I would like to have marked as Plaintiff's Exhibit 26 for identification a document entitled Supplement Agreement to Loan and Pledge Agreement dated November 13, 197

MR. HOROWITZ: I believe there are other papers attached to that exhibit in addition to the Supplemental Agreement and there may be some duplication of prior exhibits. But in any event the Supplemental Agreement doesn't indicate anything in that period.

MR. McCLINTOCK: The exhibit does contain additional attachments in it.

...(Document entitled Supplement Agreement to Loan and Pledge Agreement dated November 13, 1972 marked Plaintiff's Exhibit 26 for identification.)...

Q Mr. Berger, I ask you to take a look at

Plaintiff's Exhibit 26 for identification and tell me whether you have ever seen the original or another copy of that document, the supplemental agreement?

A I believe I have, but I am not certain. I believe I have.

Q Do you recall discussing the necessity for a supplemental agreement with anyone?

A As I say, I was not a participant to the negotiations with HIC with the exception of that one shot conversation that we had at the Regency with Mr. Yates. All of these things were done directly between HIC and/or Fullana and Cohen.

Q I would like to go back to that conversation with Mr. Yates at the Regency just for a moment.

Did Mr. Yates indicate to you whether he had ever heard of your project from sources other than Mr. Cohen?

A I think he knew the project was there. He is a very alert and involved guy in Puerto Rico and I don't recall whether he specifically referred to it but I think he certainly had at worst a gague notion that we bought a piece of land and obviously the Melias were involved and so forth and so on.

Q Did he ever indicate whether or not he had

ever received any communication from Mr. Wilkes at Paine, Webber with regard to the project?

A No.

Q Did he give an indication at that meeting that he had previously been approached by anyone with regard to that project?

MR. HOROWITZ: Wait a minute. Obviously someone told him that they were coming over to see him.

Are you excluding that?

MR. McCLINTOCK: Excluding that.

MR. HOROWITZ: Okay.

THE WITNESS: What do you mean they were coming over to see him?

MR. HOROWITZ: This meeting with him was obviously prearranged.

THE WITNESS: Yes.

MR. HOROWITZ: Excluding whatever arrangements were made to have that meeting he wants to know whether Yates gave any indication at the meeting of having been approached by anyone?

A No, I have the feeling that he had not been approached.

MR. McCLINTOCK: I have no further questions

at this time.

MR. HOROWITZ: I have no further questions at this time.

MR. McCLINTOCK: Mr. Horowitz, as we discussed, since we haven 't seen Mr. Berger's files I canot assure you that we won't have questions of Mr. Berger in the future.

MR. HOROWITZ: We will take under advisement the question of the production of documents which you made this morning and will advise you of what we are going to do in response to those requests.

I strongly doubt that any documents that we would produce from Mr. Berger's files would require additional questions and I reserve the right to take the position that the deposition is completed at this point.

MR. McCLINTOCK: I think we understand each other.

MR. HOROWITZ: And a practical suggestion that I have, since these exhibits are strewn all over the table, rather than attempt to ascertain who produced what and sort out the custody of the documents, if it is all right with you you

you can take them all and furnish me with a copy of those documents that were marked today. I have copies of the documents previously marked.

MR. McCLINTOCK: Fine, I will be glad to do that.

MR. HOROWITZ: Thank you.

MR. McCLINTOCK: Off the record.

(Discussion off the record.)

BY MR. McCLINTOCK:

Q Mr. Berger, I would like to show you two letters previously marked as Defendant's Exhibit L and Defendant's Exhibit M. Exhibit L is a copy of a letter dated October 23, 1972 from Mr. Wilkes to you with copies of other letters attached, one of which is a letter dated April 12, 1972 addressed to Mr. John D. Yates, Housing Investment Corporation and the second letter is also dated April 12, 1972 addressed to Mr. Roland Peracca, of Chase Manhattan Bank and I ask you to review Defendant's Exhibits L and M for a moment.

A All right.

Q With regard to Defendant's Exhibit L, could you tell me whether the handwritten notations that appear on the face of that are your handwritting or someone elses?

A This appears to be mine. (Indicating)

MR. HOROWITZ: That is at the top.

THE WITNESS: Yes.

A (Continuing) And this appears to be mine as well. (Indicating)

Q The marginal notations?

A Right.

Q What about the notations in the lefthand margin?

A Those appear to be mine also.

Q Does this bring back to mind anything in addition to what you have already stated with regard to the involvement of Yates and HIC in this project?

A No. The only thing that it brings to mind is that at no point in our six or seven months of dealing with Wilkes, did he at any time, certainly not to me anyway, mention to me that he was dealing with anyone else but FMI and when he subsequently told me that he had gone to HIC and Chase Manhattan, one, I was amazed and, two, in fact I think I might have even told him that I felt it might have been an act of discourtesy since traditionally many of your brokers will say to the client: "Look, we want you to know that we are dealing with A,B,C and D" and they do this, one, out of courtesy

in informing you and, two, I assume to eliminate any possible redundancy.

At no point during this six or seven month period of negotiation with Paine, Webber had any other institution outside of FMI or Berens' men been shown to us.

Q Were you or any principals of the defendant engaged in any discussions with any other possible lending source during that period?

A I don't think I was.

Q Do you know if any of the principals of the defendant or anyone else was?

A I don't know. I am pretty sure I was not.

Q Just for the record, you do recall receiving Defendant's Exhibit L?

A Yes, I do, and I recall having the luncheon with him that he refers to in here.

Q And you also recall sending to Mr. Wilkes the letter which is marked Defendant's Exhibit M?

A I do.

MR. McCLINTOCK: I don't believe I have any further questions.

(Adjourned at 1:20 p. m.)

Subscribed and sworn
to before me this
_____day of _____ Jack H. Berger.
1974

C E R T I F I C A T E

STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

I, WALTER SHAPIRO, a Certified Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify that the foregoing examination before trial of JACK H. BERGER was held before me on the 5th day of March, 1974;

That the said witness was duly sworn before the commencement of his testimony; that said testimony was taken stenographically by myself and then transcribed; and that the within transcript is a true record of the said examination before trial.

I further certify that I am not connected by blood or marriage with any of the parties herein, nor interested directly or indirectly in the matter in controversy, nor am I in the employ of any of the counsel in this matter.

IN WITNESS WHEREOF, I have hereunto set my hand, at the County and State of New York, this 11th day of March 1974.

Walter Shapiro, CSR.

March 5, 1974.

I N D E X

WITNESS	EXAMINATION BY	PAGE
Jack H. Berger	Mr. McClintock	2

EXHIBITS

PLAINTIFF'S		FOR IDENT.
20	Letter dated January 27 from Mr. Berger to Mr. William Smith of Paine, Webber.	13
21	Copy of a letter dated March 13, 1972 from Mr. Wilkes to Mr. Berger	19
22	Copy of a letter dated May 8, 1972 on the Paine, Webber letterhead addressed to Mr. Pedro Fullana signed by Mr. Leonard Wilkes.	46
23	Copy of a letter dated May 30, 1972 from Mr. Francisco Melia to Mr. Wilkes.	50
24	Copy of a letter dated May 31, 1972 addressed to Mr. Neil Montilla from Mr. Wilkes of Paine, Webber.	52
25	Copy of a letter dated June 28, 1972 from Mr. Berger to Mr. Cohen and Xerox copies of three checks.	75
26	Document entitled Supplement Agreement to Loan and Pledge Agreement dated November 13, 1972.	92

EV 302

THE Melia GROUP
MADRID, SPAIN
DIVISIONS: HOTELS
REAL ESTATE DEVELOPMENT

U. S. RESIDENT FINANCIAL OFFICE
30 EAST 42ND STREET
NEW YORK, N. Y. 10017
TELS (212) 661-4014

Mr. William B. Smith, Vice President
Paine, Webber, Jackson & Curtis, Inc.
(Corporate Finance Dept.)
140 Broadway
New York, N. Y. 10005

January 27, 1972

Dear Bill:

I wish to thank you for your sympathetic reception last Tuesday. Mr. Fullana and I very much enjoyed talking with you and Mr. Saint Phalle.

As per my promise, I enclose herewith unaudited 1969 & 1970 consolidated U.S. dollar financial statements as well as a 5 year consolidated cash flow and P&L projection for the Melia Group prepared by Arthur Andersen. Mr. Fullana will be airmailing you directly the additional information you requested. We sincerely hope that something can be done with your firm on our Puerto Rican financing needs.

With kind personal regards,

Sincerely,

Jack H. Berger

JHB/de
Enclosures

cc: Pedro Fullana

Deft. Exh. For ID 20
Plf. Exh. ~~In Ev~~
Walter Shapiro CSR
Doyle Reporting Inc.
3-5-74

BEST COPY AVAILABLE

(7) "Loan Arrangements"

PAINE, WEBBER, JACKSON & CURTIS

INCORPORATED

MEMBERS
PRINCIPAL STOCK AND
COMMODITY EXCHANGES
ESTABLISHED 1879

140 BROADWAY
NEW YORK, N. Y. 10005

TELEPHONE
(212) 437-2121
CABLE-PAINWEB, N. Y.

March 13, 1972

Mr. Jack H. Berger,
Executive Vice President
Melia Real Estate Development
30 East 42nd Street
New York, New York 10017

Re: Melia Apartotel
Isla Verde, Puerto Rico

Dear Jack:

I am happy to enclose our Application for Commitment for your proposed 627-unit Condominium Hotel to be built on the ocean in Isla Verde.

I think you will find the major business terms and conditions clearly spelled out in the application, which will involve a standby takeout commitment and an interim construction loan.

Please note that we will require 45 days in order to deliver the final commitments, but hopefully will have preliminary approvals long before the 45-day period.

If these terms and conditions are satisfactory, would you please execute in the spaces provided on all three pages and return to my attention as quickly as possible in order that we might commence the formal processing of the various loan applications.

We look forward to a speedy and successful financing of your Melia project in the Caribbean and hopefully to many more in the future.

Sincerely

Leonard Wilkes

Leonard Wilkes
Vice President-Real Estate

RECEIVED
MAR 13 1972
TIME 2 pm

LW/jb
Encl.

Deft. Exh. For ID 21
Plf. Exh. ~~in EV~~
Walter Shapiro CSR
Doyle Reporting Inc.

EV 304

APPLICATION FOR COMMITMENT

DATE: March 14, 1972

PAINE, WEBBER, JACKSON & CURTIS
Incorporated
National Mortgage Division
140 Broadway
New York, N.Y. 10005

RE: Melia Apartotel
Isla Verde, Puerto Rico

Gentlemen:

We hereby appoint you our sole and exclusive agent to make application for a loan or loans on our behalf, to any lending institutions selected by you, on the property hereinafter designated. This authorization shall become effective upon acceptance by you and shall remain in effect for a period of 45 days from the date of your acceptance and receipt of all necessary supporting data, per submission checklist attached, and such period shall be automatically extended, unless terminated in writing.

1. PROPERTY DESCRIPTION: 627 unit Condominium Hotel

2. GROUND DIMENSIONS OR AREA: 19,600 sq. mtrs.-(210,896 sq. ft.)

3. LOAN SECURITY: First Mortgage Note or Bond, secured by the subject property, the applicant corporation, its principals and their wives, including personal property and equipment incorporated in the realty and necessary for the operation of the subject real estate. For construction mortgage loans, satisfactory Completion and Performance bonds will also be required of the General Contractor.

4. OTHER SECURITY: Assignment of all tenant leases, and/or sales contracts, as well as tenant deposits and advances.

First chattel lien on all furniture, fixtures, and equipment necessary for the hotel operation.

5. FINANCING REQUESTED:

	TYPE OF LOAN	AMOUNT	Interest-Fees-Partic.	TERM	Constant	Note
A)	Standby Take-Out	$18.0 Mill	If Funded: 5-1/2% over prime (min. 10%). Commitment fee to lender, 1% per annum for 24 mos., plus two 6 month extensions at additional fee of 1/2% each.	To 60 mos. total	1-2% annual amort-ization	*
B)	Construction Loan	$18.0 Mil	2-2-1/2% over prime (min. 6-1/2-7%) plus 1% year commitment fee to lender.	24 mos. plus 2 extensions of 6 mos. each.	—	*

6. HOLDBACK & ACHIEVEMENT: None - Full amount will be funded.

7. PRE-PAYMENT PROVISIONS: Allowed in full at any time without penalty.

*Alternatively, you are authorized to attempt a simple interest combined standby and construction loan at 5-5.5% over prime without any fees to lender.

RE: Melia Apartotel
Isla Verde, Puerto Rico

8. REPRESENTATIONS BY APPLICANT:

a) Title to subject property will be marketable and insurable.

b) Plans, specifications, contracts, cost breakdowns, appraisals, survey, financial statements and any other pertinent data will be furnished by applicant upon request for your use or for the use of any lender.

c) All fees for appraisals, survey, title insurance, title examination, abstract, legal fees, recordation, tax stamps, acceptance, loan fees or costs will be paid by applicant, in addition to other normal closing costs.

d) Applicant will promptly execute any lender's application and furnish such data, appraisals, and GOOD FAITH DEPOSITS, as required by the lending institution.

e) We will permit you to erect a sign on the property site, at your expense, to indicate that you arranged mortgage financing, and will provide you with a 8" x 10" glossy photograph of the finished building.

f) Applicant warrants current control of the property either in fee ownership, or contract to purchase, or option to purchase, or a leasehold interest, etc., with sufficient time remaining within which to process this loan application to a firm commitment and closing by

9. DEPOSIT AND FEES:

a) We will deposit with you, in escrow, the sum of $90,000 * as a GOOD FAITH DEPOSIT, to be deposited by you in the "Paine, Webber, Jackson & Curtis, Incorporated-Special Deposit Account." Said sum will be refunded without interest in the event that you do not deliver a loan commitment as herein described. In the event you do deliver such commitment, this deposit will be credited against the commissions due you in accordance with our agreement. *at the time of preliminary approva

b) We agree to pay you a total brokerage fee of 1.5 % of the amount of loan commitment delivered to us, which substantially conforms to the terms and conditions set forth hereinabove, and/or any loan commitment accepted by us. Upon delivery of any commitment as aforesaid, THE GOOD FAITH DEPOSIT may be credited by you towards your total fee and the balance of your total fee, if any, shall thereupon become due and payable. **1% for the standby and .5% for the construction.

10. We understand that any lending institution financing or offering to finance our loan request may be interested in financing other projects in which we are directly or indirectly involved. Therefore, we agree to pay you a fee as designated in paragraph 9(b), in the event that any such lending institution extends financing within thirty-six months of the date hereof, to us, or to any individual, company or corporation with which we or any of our associates, principals, affiliates, and/or subsidiaries have a direct or indirect association.

11. GOVERNING LAWS: The parties agree that the terms and conditions of this agreement shall be construed and governed by the laws of the State of New York, and acknowledge that they have read this Agreement before signing it, and have received an exact copy thereof.

Applicant _____ Address _____

By: _____

Title: _____ Zip

Dated: _____ Tel. No. ( ) _____

Accepted: Paine, Webber, Jackson & Curtis Incorporated

BY: _____ Title _____ Date: _____

RE: Melia Apartotel
Isla Verde, Puerto Rico

SUBMISSION CHECKLIST
(X) = Items Still Required

O.K. 1. Plot plan showing site and surrounding streets or highways

O.K. 2. Typical apartment plan for each type of apartment showing net leaseable area of each

O.K. 3. Typical floor plan (Key Plan) or rental plan if commercial

O.K. 4. Outline specifications

X 5. Two street maps of city -
Mark one map with site, rent comparables and other points of interest, including downtown area

X 6. Two aerial photos -
Mark one photo with street listings, designation of North, points of interest, major buildings, etc.

O.K. 7. Specific address of subject property

O.K. 8. Site description

O.K. 9. Area and neighborhood description

O.K. 10. Schedule of income from rents and all other sources including parking, recreation etc.

O.K. 11. Itemized expenses (including RE tax details)

O.K. 12. Rent & Sales comparables (three) -
Must include name of development, address, number of units age, distance to subject, apartment type, area of each apartment type, monthly rental, rental per square foot, amenitites and recreational facilities and comments of location, etc.

O.K. 13. Itemized cost of construction, including Architects and Engineers, on and off-site improvement costs, actual land costs, and actual cash equities in the job to date

O.K. 14. Rendering and elevations

O.K. 15. Architect's area calculations of building, core areas, public and recreational areas etc. showing all the components, from net leaseable area to gross building area

O.K. 16. Authorization (attached) with required refundable GOOD FAITH DEPOSIT

O.K. 17. List of sponsors and resumes of their previous real estate activity

O.K. 18. Financial statements of principals and/or guarantors

O.K. 19. Financial statements of applicant mortgagor corporation or entity

O.K. 20. MAI Appraisal or Feasibility Study

21.

22.

11 Loan Application

EV 307

PAINE
WEBBER
JACKSON
& CURTIS
INCORPORATED

Established 1879 Members New York Stock Exchange, Inc. and other Principal Exchanges
140 Broadway, New York, N.Y. 10005 (212) 437-2121

May 8, 1972

Mr. Pedro Fulana
Executive Vice President
Inmobiliaria Melia de Puerto Rico Inc.
Ponce de Leon, 255
Pan American Building
Oficina 1106
Hato Rey, Puerto Rico 00917

Deft. Exh. For ID 22
Plf. Exh. ~~for~~ EV
Walter Shapiro CSR
Doyle Reporting Inc.
3-5-74

Re: Melia Apartotel Hotel
Isla Verde, Puerto Rico

Dear Pedro:

I am happy to advise that we have received preliminary approval for the Standby and Construction Loan financing of the proposed Melia Apartotel Hotel to be built in the metropolitan San Juan area of Puerto Rico.

First Mortgage Investors Trust will take an application to present the following proposal to their committee for Trustee approval:

a)	Loan Amount:	$19.0 million, but no less than $18.0 million
b)	Interest Rate:	4 1/2% over prime, floating upward or downward
c)	Term of Loan:	60 months, including a construction period of 24 months, plus two 6 months extension options if necessary
d)	Amortization:	1% per annum, only if the loan is kept on beyond the maximum construction period of 36 months
e)	Lenders Fees:	Will amount to a total of 4%, including the standby fees, drawing fees, origination fees, legal fees, etc.

It is understood that because of the Puerto Rico tax situation this loan will be originated and serviced for First Mortgage Investors by the Berens Mortgage Bankers, Inc. of San Juan, and that all the loan fees described above will be collected by Berens on behalf of the participants in this loan.

I call your attention to the fact that the Trust will be making a top loan at $18.0 to $19.0 million and that there is no hold-back provision, so that the full amount of the commitment will be funded without any pre-sales or pre-rental conditions. Please note also that the interest rate quoted will float in either direction, without a pegged minimum, which will give you the advantage of any lowering of construction rates over the term of the commitment.

Finally, I call your attention to the fact that all fees quoted above will be payable from the proceeds of the construction advances, so that you will not be required to come up with these fees as front money out of pocket.

If these terms and conditions are acceptable to you and your partners, would you please acknowledge this fact in the space provided below and return to my attention as soon as possible so that we can schedule a meeting with the Trust shortly thereafter. This will serve to amend our authorization dated March 24, 1972 to the terms and conditions described above, and will further serve to extend that authorization for the time required to process formally through the FMI Trustee Committee approval, but no later than 30 days from the receipt of your acknowledgment.

Now that the time consuming presentation work and negotiation has been concluded, I look forward to a fast approval and closing so that you can start construction without further delay.

Sincerely,

Leonard Wilkes

Leonard Wilkes

Acknowledged and Accepted:

Inmobiliaria Melia de Puerto Rico Inc.

By:_____

Date:_____

cc: Mr. Jack H. Berger
Melia Real Estate Development

May 30, 1972

Mr. Francisco Melia, President
Hotel Division -- The Melia Group
Princesa 25
Madrid 8, Spaine

Dear Paco:

I must tell you what a pleasure it was to have finally met you last week and how delightful our luncheon turned out to be.

I understand from Jack that your meeting with Marty Cohen went well and that there were no booby traps of which we were not previously aware, and which we had not previously notified you of.

Everything appears to be on track, and hopefully we should have our approvals within the next week or so.

It now appears that my wife and I may be visiting Spain and Italy in September of this year and we would very much like to arrange our trip through the Melia Travel Organization, and hopefully look forward to meeting with you again on your home grounds. If you would be good enough to put me in touch with your Melia Travel representative in New York, I would be happy to make my arrangements through him.

Thank you again for your courtesy and consideration -- we look forward to meeting with you again in the very near future.

Sincerely

Leonard Wilkes

LW/je

May 31, 1972

Mr. Neil Montilla
GPO Box 3529
San Juan, Puerto Rico 00936

Dear Neil:

What has happened to our poor package, that we had hoped to gain time with by shipping Pan Am, is not to be believed. When my ulcer finally calms down I am sure I will find something funny to laugh about. As you will note from the enclosed receipt, the package was picked up at our office on May 24. As of this morning it is still "somewhere" in New York and I have everybody from the President down looking for it. Although they have assured me that it will get on a flight today, in order to avoid further aggravation I am enclosing herewith a partial duplicate set of the documents originally sent to you. Nevertheless, we will advise your office as soon as we get a flight number on the original package which will go out under Airway Bill #026-2853-1882.

The enclosed package basically includes the Horwath & Horwath Hotel feasibility survey, the Pedro A. Pons appraisal, the engineering quantity take-offs and cost estimates, and the pertinent financial statements. Many of these documents are my only remaining copies, but since it would take another day or so to photostat, which time I do not wish to lose, I am sending them along anyway, and w would ask that you return them to me when our wayward package finally arrives.

Included also is the full package of our original authorization and subsequent reauthorizations along the terms of FHI's quote, which I am grateful that you are holding for us. Our co-brokerage agreement is also included.

Deft. Exh. For ID 24 .....
Plf. Exh. in EV .....
Walter Shapiro CSR
Doyle Reporting Inc.
3-5-74

.../...

You can pick up plans and specs and any other documentation that may be available directly from Mr. Pedro Fullana at his Fidelity Bond and Mortgage Company office at 1610 Ponce de Leon Avenue, Santurce -- Telephone (809) 725 5858. Please do not hesitate to call on Mr. Fullana for any assistance you may require at this time.

As soon as you are ready to take a formal application for FHI, please advise me, at which time I will make arrangements for the necessary parties to get together to sign the application and put up the required FHI Good Faith Deposit of $50,000.

Please excuse the unpardonable delay on our part in getting the necessary documentation to you, but as you can see we had no control over events that occurred in the transmission.

We look forward to a speedy approval and closing and funding of this loan, since my clients are most anxious to commence construction immediately.

Best personal regards.

Sincerely

Leonard Wilkes, Director
National Mortgage Department

LW/je
cc: Pedro Fullana
Jack Berger
Martin Cohen

THE Melia GROUP
MADRID, SPAIN
DIVISIONS: HOTELS
REAL ESTATE DEVELOPMENT

U. S. RESIDENT FINANCIAL OFFICE
30 EAST 42ND STREET
NEW YORK, N. Y. 10017
TEL.: (212) 661-4014

EV 312

Mr. Martin Cohen
1133 Sixth Avenue - 28th Floor
New York, N. Y. 10036

June 28, 1972

Dear Martin:

As per our this morning's conversation regarding the financing by FMI of our Apartotel located on Isla Verde, Puerto Rico I am pleased to enclose herewith, on behalf of the Melia Group, our pro rata share of the "good faith deposit" totaling $18,748.75 to the order of Berens Mortgage Bankers, Inc., FMI's correspondent in Puerto Rico.

It is my understanding that this deposit will be returned to us in its entirety by Berens no later than July 31, 1972 should the loan commitment, as agreed upon, not be delivered.

I telephoned Pedro Fullana this afternoon. He was not in his office and in line with your request I asked his secretary to see to it that a check for his pro rata share of the deposit be air mailed today to you, special delivery.

I spoke with the National Bank of North America this morning and as soon as I hear from them with respect to the one year L/C amounting to $1,500,000 I shall revert to you.

It would expedite matters if I could take with me to Panama Friday morning the personal guarantees you wish Mr. and Mrs. Jose Melia, Sr. to sign.

I should like to reiterate that because of the need for clearance with the Spanish Institute of Foreign Exchange, the Melias are not in a position to pledge their share of the equity in Inmobiliaria Melia de Puerto Rico, Inc.

25

~~Deft. Exh.~~ For ID .....
Plf. Exh. ~~In EV~~ .....
Walter Shapiro CSR
Doyle Reporting Inc.
3-5-74

Mr. Martin Cohen
1133 Six Avenue
New York, N. Y.

June 28, 1972

With best personal regards,

Sincerely,

Jack H. Berger

JHB/de
Encl.

cc: Francisco Melia
Pedro Fullana
Manuel Coronado

111 WEST 40TH STREET NEW YORK, N. Y. 10018

July 5 1972 EV 314

PAY TO THE ORDER OF Berens Mortgage Bankers Inc. $25,000.00

TWENTY-FIVE THOUSAND AND 00/100 DOLLARS

MANUFACTURERS HANOVER TRUST COMPANY
34th St. at Madison Ave., N. Y., N. Y. 10016

TOTAL OF INVOICES
LESS % DISCOUNT
TOTAL DEDUCTIONS
AMOUNT OF CHECK

⑆021000308⑆ 0130 0⑈32342⑈

APARTOTEL MANAGEMENT CORP.
NEW YORK, N. Y.

Special deposit account
Good faith deposit for Puerto Rico project

No. 249

June 28, 1972 1-315/260 ID

PAY TO THE ORDER OF BERENS MORTGAGE BANKERS, INC. ---------- U.S.$ 18,748.75

EIGHTEEN THOUSAND SEVEN HUNDRED FORTY EIGHT and 75/100 ---------- U.S. DOLLARS

National Bank of North America
INTERNATIONAL DEPARTMENT
NEW YORK, N. Y.

APARTOTEL MANAGEMENT CORP.

Jack H. Berger

⑆026003151⑆ 2059⑈05 2559⑈

FECHA	CONCEPTO	IMPORTE
	Good faith deposit re:	
	Melia apartotel project	

PEDRO FULLANA
G.P.O. BOX 1805 SAN JUAN, P.R. 00936

No. 3754

29 junio 1972 101-236/215

Páguese a la orden de Berens Mortgage Bankers, Inc. $6,251.25

SEIS MIL DOSCIENTOS CINCUENTA Y UNO 25/100 Dólares

THE CHASE MANHATTAN BANK
National Association
Santurce Branch, Santurce, Puerto Rico
6-2

⑆021502061⑆ 703⑈1⑈005690⑈

BEST COPY AVAILABLE

SUPPLEMENTAL AGREEMENT

TO

LOAN AND PLEDGE AGREEMENT

THIS AGREEMENT, made and entered into at San Juan, Puerto Rico, on this 15th -- day of November, 1972, by and between EL ALCAZAR VILLE DE PUERTO RICO, INC., a corporation organized and existing under the laws of the Commonwealth of Puerto Rico (referred to herein as either "Owner", Builder and/or Borrower), and EQUITABLE MORTGAGE CORPORATION, a corporation organized and existing under the laws of the State of Delaware and duly qualified to do business in the Commonwealth of Puerto Rico (referred to herein as "E.M.C." or "the Company").

W I T N E S S E T H : That

WHEREAS, the Borrower and E.M.C. executed a Loan and Pledge Agreement dated the 31st day of October 1972, and

WHEREAS, the Borrower and E.M.C. desire to supplement the above-referred Agreement with certain changes and amendments; and

WHEREAS, the parties have agreed that for all legal purposes what is not changed or amended in this Supplemental Agreement will remain unchanged and as it was in the original Agreement in full force and effect between the parties; and

WHEREAS, the parties have agreed that the original Agreement and this Supplemental Agreement shall be read and construed together as one instrument and all references in this supplemental Agreement shall be deemed to constitute references to the original Agreement.

NOW, THEREFORE, in consideration of the premises and of the mutual and separate agreements, promises, covenants and warranties hereto and for other good and valuable considerations, it is agreed by the parties as follows:

COVENANTS, WARRANTIES, REPRESENTATIONS AND AGREEMENTS OF THE BORROWER

1. The preamble of this Agreement is made to form a part hereof.

2. The Agreement subscribed between the parties dated the 31st day of October 1972 is amended as follows:

(a) Definitions - Part A, page 1, the word "Operational" is added after the definition of the word "Permanent" as follows

Deft. Exh. For ID 2C
Plf. Exh. ~~in EV~~
Walter Shapiro CSR
Doyle Reporting Inc.
3-5-74

Apartohotel: Condominium building in which the owner of an apartment or a room contracts with an organization who operates the whole building to rent the unit on a daily, weekly or monthly basis. The owner generally retains the right to use the unit during certain period of the year or when the unit is not rented and receive a percentage of the rental income.

(b) Page 1 - The words "if any" are added after the word financing in the definition of Bank.

(c) Page 2 - The words "or persons" are added after the word individuals in the definition of Guarantors.

(d) Page 3 - the phrase "and pursuant to approval of the Securities and Exchange Commission of the U.S.A." is added after the word Ship in the definition of Project.

(e) Page 3 - fourth line from bottom of page the word "executes" is used in lieu of constitutes.

(f) Page 4 - third line, add the following paragraphs after the word conducted:

In this connection Borrower is aware of the fact that in order to legally engage in the business to sell the Apartments constituting the Project and to operate them as an Apartohotel, it must first register and obtain loan and approval from the Securities and Exchange Commission of the U.S.A. and may have to also obtain certain other permits from the Commonwealth Government. In such respect Borrower expressly agrees and undertakes that it will forthwith proceed to properly apply for and diligently proceed to obtain any and all such required registration, leaves and approval from the said agencies and it is hereby expressly agreed and understood that should Borrower fail to effect and obtain said registration, leave and approval within a period of six months from the date hereof, F.I.C. shall have either of the following alternatives, to wit:

(a) To proceed in the name and behalf of Borrower to obtain such registration, leave and approval, and toward that purpose Borrower hereby irrevocably appoints F.I.C. to act as its true and lawful attorney-in-fact so that F.I.C. may accomplish such aims and purposes in behalf of Borrower.

(b) To declare all obligations of Borrower hereunder accelerated, due and payable, and-

(o) To refuse to continue to make further advances under this contract.

(g) Page 4, (a), after word good add 'recorded'.

(h) Page 4, paragraph (e), after first word 'Mortgage' add 'given to secure two mortgage notes'.

(i) Page 5, paragraph (k), after word Guarantors add 'is up to date', delete last word 'thereby' and add word 'therein' in lieu.

(j) Page 6, paragraph (q), delete paragraph (g) and copy following paragraph in lieu of:

(g) Obtain, maintain, preserve and renew all rights, powers, privileges, franchises and approvals of the Planning Board which the Builder has now or may hereafter acquire, to the extent that such rights, powers, privileges, franchises and approvals may be in any way required for the successfull termination of the Project;

(k) Page 7, paragraph (h), first line, after word payment add 'and any other fee', delete word made and in lieu add 'paid'.

(l) Page 7, paragraph 8(b), add after item (iii) current indebtedness the phrase 'other than in due course of business'.

(m) Page 8, paragraph (f), after word any, add 'cash or stock'.

(n) Page 9, paragraph 4, after the word thereof on the fifth line of said paragraph, add 'and until full payment at the rate of 9% per annum'.

Page 9, paragraph 5, add after the word required on the twenty-first line of said paragraph 'and furnished'.

(o) Page 10, item (c), paragraph 6, delete last word on third line, 'property', add in lieu 'properly'.

Page 10, item (e), paragraph 7, add after last word 'Mortgage', 'or under the other Mortgage Notes and Mortgage also given as security hereunder'.

(p) Page 11, item (c), add after last word of said paragraph, effect, ; with all premiums paid to date.

BEST COPY AVAILABLE

(j) Page 13, item (e), delete the words "from time to time" appearing after the word property; add the word "but" after the last "HIC".

(r) Page 14, Part E, paragraph 1, delete word "and" appearing after pledges and add phrase "and delivers to HIC" after word hypothecates.

Page 14, Part E, paragraph 1, item (a), delete word Bearer, write in lieu "Borrower".

(s) Page 16, Part G, paragraph 1, item (d), after word Either add "all".

(t) Page 17, the word "or" appearing on the third line of page 17 after the word law is changed to read "of".

Page 17, paragraph 2, after paragraph ends add "It is agreed and understood that such declination shall not in any way be construed to deprive HIC of any of the rights and/or remedies provided hereunder or under any existing law or in equity.

Page 17, paragraph 4, after word law add "or equity".

(u) Page 18, Part F, paragraph 2, item (b)(i) after word charges add "including any brokers commissions and/or the expenses of Registration with S.E.C."

(v) Page 21, after item (k), add following paragraphs:

(l) It is expressly agreed and understood between the parties hereto that all remedies and rights of acceleration contained in this agreement shall be cumulative and in addition to any other remedies and rights available to HIC and/or provided in any other documents executed between the parties hereto in furtherance of the transaction agreed to between the parties.

(m) The subscribing party, Inmobiliaria Mella de Puerto Rico, Inc. represents and guarantees that they have taken care and/or will take care of any pending and/or future brokerage commission and/or commissions to be paid in connection with this financing and obliges itself to save HIC harmless from the payment of any amount that may be forthcoming and as a commission in this transaction, as well as to save HIC harmless in accordance with clause provided in item (f), page 16, of the Loan and Pledge Agreement) of any litigation based on same.

IN WITNESS WHEREOF, the parties have executed this Agreement by their respective duly authorized officers under their respective seals, all on the day and year first above written.

INMOBILIARIA MELIA DE PUERTO RICO, INC.

By: /s/ Pedro Fullana

HOUSING INVESTMENT CORPORATION

By. /s/ Francisco Román

By. /s/ Manuel Jiménez

Affidavit No. 10,153

Sworn and subscribed to before me by Pedro Fullana, of legal age, married, property owner, and a resident of San Juan, Puerto Rico, in his capacity of Executive Vice President of Inmobiliaria Melia de Puerto Rico, Inc.; and by Francisco Román and Manuel Jiménez, both of legal age, married, property owners, and residents of Río Piedras, Puerto Rico, in their respective capacities of Vice President and Assistant Secretary of Housing Investment Corporation, to me personally known, at San Juan, Puerto Rico, this 13th day of November, 1972.

/s/ José Manuel Calderón Cerecedo
Notary Public.

Ratification of Guaranty

The subscribing guarantors appear herein solely to the effect of stating their consent to this Supplemental Agreement and ratifying their personal guaranty.

INMOBILIARIA MELIA, S.A.

By /s/ Pedro Fullana

Pp. Francisco Melia
FRANCISCO MELIA
Pp. /signed/ Pedro Fullana

BASIC EQUITIES AND DEVELOPMENT CORP.

By: /s/ José M. Alvarez de Choudens

/s/ Pedro Fullana
PEDRO FULLANA.

Affidavit No. 10,154

Sworn and subscribed to before me by Pedro Fullana, of legal age, married, property owner, and a resident of San Juan, Puerto Rico, on his own behalf, in his capacity of Executive Vice President of Inmobiliaria Mellá, S.A., and as Attorney-in-Fact of Francisco Mellá, who is of legal age, married, property owner, and a resident of Madrid, Spain; and by José M. Alvarez de Choudens, of legal age, married, property owner, and a resident of San Juan, Puerto Rico, in his capacity of Senior Vice President of Basic Equities and Development Corp., to me personally known, at San Juan, Puerto Rico, this 13th day of November, 1972.

/s/ José Manuel Calderón Cerecedo

Notary Public.

JOSE M. CALDERON CERECEDO
ABOGADO
NOTARIO
Isla de Puerto Rico

--- NUMBER ONE HUNDRED FORTY-ONE ----------

---------- DEED OF INCORPORATION ----------

--- In the City of San Juan, Commonwealth of Puerto Rico, - this thirteenth day of the month of November of the year --- nineteen hundred and seventy-two. ----------

---------- APPEAR ----------

--- TOD MANUEL GUILFU RODRIGUEZ, Attorney-at-Law - and Notary Public in and for the Commonwealth of Puerto --- Rico, with offices at Fomento Building, in Isla Verde (San Juan), Puerto Rico, and residence in Carolina, Puerto ------ Rico. ----------

---------- APPEAR ----------

--- OF THE FIRST PART: INMOBILIARIA MELIA DE PUERTO -- RICO, INC., a corporation organized under the laws of the - Commonwealth of Puerto Rico, with principal offices at San- Juan, Puerto Rico, duly authorized to do business in the - Commonwealth of Puerto Rico, herein represented by ------ PEDRO PUIGMIÑA, of legal age, married, property owner and a resident of San Juan, Puerto Rico, in his capacity of ------ Executive Vice-President of said Corporation, who binds --- himself to show his authority to execute this deed whenever and wherever so required. ----------

--- AND OF THE SECOND PART: HOUSING INVESTMENT ------ CORPORATION, a corporation organized and existing under -- the laws of the State of Delaware, duly authorized to do ----- business in the Commonwealth of Puerto Rico, with principal offices at Isla Verde (San Juan), Puerto Rico, herein represented by MISTER THEODORE COHAN and MISTER MANUEL JIMENEZ, both of legal age, married, property owners, and - residents of Río Piedras, Puerto Rico, in their respective --- capacities of Vice President and Assistant Secretary of said Corporation, ----------

---------- in their respective capacities of Vice President ---------- and Assistant Secretary ---------- of said Corporation, who bind themselves to show their authority to execute this deed whenever and wherever so required. ----------

--- I, the Notary, attest that I personally know the appearing parties, who assure me that they have, in my opinion judgment they do have, the legal capacity to execute this deed, and the parties assure me that they have been duly authorized to execute this deed, and they have ----------

2.

---------- STATE: ----------

--- FIRST: That on the thirty-first day of October nineteen --- hundred and seventy-two, before Notary Public José Manuel - Calderón Coreccdo, the party of the first part executed Deed - of Mortgage Number One Hundred Thirty-Six (136), in guaranty of the payment of a Promissory Note in the amount of TEN ---- MILLION DOLLARS ($10,000,000.00). ----------

--- SECOND: The property referred to in the above Deed of -- Mortgage is described and appears recorded as follows: -----

--- "PARCEL OF LAND located at Cangrejos Arriba Ward of the Municipality of Carolina, Puerto Rico, property of Insular ---- Hotel Corporation, comprising an area of TWO HUNDRED ---- ELEVEN THOUSAND AND FORTY-TWO SQUARE FEET THREE ---- THOUSAND TWO HUNDRED FORTY-FOUR TENTHOUSANDTHS - OF A SQUARE FOOT, equivalent to NINETEEN THOUSAND SIX - HUNDRED POINT FIVE THOUSAND FIVE HUNDRED AND ------- NINETEEN SQUARE METERS, bounded at the NORTH, by the --- Maritime Zone of the Atlantic Ocean; at the SOUTH, by the --- right of way limit to State Road Number One Hundred Eighty -- Seven; at the EAST, by land property of Alfonso Valencia and - Puerto Rico Ports Authority; and at the WEST, by a strip of --- land of ten meters wide property of A. H. Biascoechea, formerly Fernando Fernández." ----------

--- This property was acquired by the party of the first part as it appears from Deed Number Two Hundred Ten, of "Exchange in the Solution and Liquidation of Corporation", executed on - the twentieth day of June, nineteen hundred and sixty-nine, -- before Notary Public José Antonio Luiña, and same appears --- subject to a Mortgage securing two Promissory Notes payable - to the bearer in the amounts of SEVEN MILLION DOLLARS ----- ($7,000,000.00) and ONE MILLION TWO HUNDRED FIFTY ---- THOUSAND DOLLARS ($1,250,000.00), by Deed Number ------ Seventy-Two, dated December twenty-three, nineteen hundred and sixty-six, before Notary Public Luis E. Dubón, Jr., ----- recorded at page seventy-four of volume two hundred seventy-three of Carolina, property number ten thousand five hundred - twenty-three, third entry, Registry of the Property of Puerto -- Rico, San Juan, Fourth Section. ----------

--- THIRD: That the appearing party of the first part desires - to clarify certain statements, as well as to make certain ----- amendments to said deed, to wit: ----------

----- One: The appearing party of the first part desires that immediately after her name the phrase "referred to in this deed as "The Corporation"" be added. ----------

----- Two. In the third line from the bottom at page two, the words "the Solution" be deleted and in lieu the word ------- "dissolution" be written. ----------

----- Three: The interest appearing in the Promissory Note, as well as in line number twelve of the literal transcription of the Promissory Note appearing at page three (3) is eight per cent per annum (8%) instead of nine per cent per annum (9%). -

----- Four. At page six (6), item "One", paragraph FOURTH, at the end of the paragraph after the word property and read - to any other property by destination residing thereon". -----

----- Five. At page seven (7), item "Four", at end of ----- paragraph after the word mortgagehand "Said policies shall be issued by a company authorized to do business in Puerto ---- Rico and agreeable to the holder of the mortgage note" -----

----- Six. At page ten (10), item Eleven, the word Mortgagor appearing at the fifth line of said paragraph is changed to --- Mortgagee. -----

--- FOURTH: The appearing party of the second part, Housing Investment Corporation, is the holder of the Promissory Note guaranteed with the above-referred Mortgage of Ten Million - Dollars ($10,000,000.00); that I, the subscribing Notary, ---- attest to the fact that the party of the second part, Housing -- Investment Corporation, has no objection to the Amendments - made herein and that said part, do hereby to me the original - of the said Promissory Note at the time of this execution and that in order that any future holders of the Promissory Note -- may take cognizance of the amendments herein made, I place a notation in the reverse of the Note, which literally ------- transcribed reads as follows: -----

----- The Mortgage guaranteeing payment of this Promissory- Note has been amended by Deed of Clarification No. 141, --- executed before Notary Public José Manuel Calderón Cereca- do, on the 13th day of November, 1972. -- (Signed, ----- sealed, marked and flourished) José Manuel Calderón ------- Cereceda -- Notary Public -----

--- I, the Notary, certify that after typing the above-referred Note I returned the original of the Promissory Note for Ten --- Million Dollars ($10,000,000.00) to the representatives of --- Housing Investment Corporation. -----

--- FIFTH: The appearing parties request that the Registrar - of the Property make whatever notations may be necessary in the books of the Registry so that same reflects the changes -- herein made. -----

--- I, the Notary, do hereby certify that I advised the ------ appearing parties herein of the legal effect of the present -- document, which was executed before me by the said parties, after reviewing their right to have witnesses in accordance -- with the law. -----

--- I, the Notary, do hereby certify that this document was - read by the appearing parties and that they signed the same - before me, the Notary. The appearing parties initialed every and every folio of this document. -----

--- I, the Notary, also certify as to my personal acquaintance with the appearing parties, as to their capacity -----

---

4.

qualifications in accordance with their statements, and ---- as to all other things herein contained and alleged. -------

(Signed) Pedro Fullana.--- Francisco Román.-- Manuel --- Jiménez.--- (Signed, sealed, marked and flourished) ------ JOSE MANUEL CALDERON CERECEDO.--- (The corresponding internal revenue stamps and of notarial fee have been -- cancelled on the original of this deed.) ----------

EV 325

Housing Investment Corporation
470 Ponce de León Avenue
Hato Rey, Puerto Rico

Gentlemen:

In order to induce you, from time to time, at your option, to make loans or advances to, or at the request of Inmobiliaria Molfa de Puerto Rico, Inc. a corporation organized under the laws of the Commonwealth of Puerto Rico, with principal offices in San Juan, Puerto Rico, hereinafter called the "borrower"), or to discount notes, bills of exchange, acceptances, checks or any other instruments of evidence of indebtedness (all of which are hereinafter designated "instruments") on which the borrower is or may be liable as maker, endorser, acceptor or otherwise, and to make loans or advances on the basis of any such instrument as security, or to extend credit in any other manner to the borrower, with or without security, the undersigned and each of them hereby guarantee jointly and severally with the borrower, prompt payment at maturity to you, your successors or assigns, of each and every such loan, advance, credit and other obligation hereinabove referred to and also of any other debt, of any nature, which the borrower may now or hereafter owe you, including each and all the instruments above mentioned (whether issued before or after this date) in which you now have or may in the future have or acquire any interest, whether beneficial or security or otherwise, together with any and all expenses in which you may incur in the collection of all or part of any such debt, or to make effective any right herein created, provided however that the several liability of each of the parties subscribing this guarantee shall at no time exceed the sum of $17,812,000.00 in lawful currency of the United States, whatever may be the medium in which the obligation hereby guaranteed may be payable, plus interest which may accrue, whether before or after maturity, on the said obligation, plus costs, expenses and attorneys fees incurred by you. And all of the undersigned hereby waive notice of acceptance of this guarantee, as well as presentment, demand, protest and notices of nonacceptance or nonpayment of each and every such instrument hereinabove referred to, and they likewise waive demand, and notice of non-payment on each and every such loan, advance, credit or other obligations above referred to, and further waive any right to demand that judicial action be taken against any person who may be a party to said instruments, or who may be liable thereon, and further waive any notice or demand to the undersigned under this document, as also the right to plead the statute of limitation on said obligations.

And the undersigned hereby consent and agree that you may at any time or from time to time at your discretion:

1.- Extend or change the maturity, or the manner, place or condition of payment of any and all of said instruments, loans, advances, credits and other obligations or of any part or parts thereof, or of any renewal or renewals thereof;

2.- Substitute, release or deliver all or part of the collateral security of any part or parts thereof (regardless of who supplied it) which you may have, or may acquire in the future, in connection with this guarantee, or with any or all of the instruments, loans, advances, credits and other obligations hereinabove referred to;

3.- Sell or purchase all or any part of the said collateral security at private, public or notarial sale, or at any broker's board, and after deducting the costs, attorneys fees and expenses of any sort incurred in the collection sale and delivery of such collateral, the products of the said sale or sales may be applied by you to any obligation or obligations of the borrower, the payment of which is guaranteed by the undersigned, or of any other debt or liability of the several undersigned to you;

4.- To effect settlements of arrangements with the borrower or with any other person or persons liable thereon, with respect to any or all such instruments, loans, advances, credits or other obligations, the payment whereof the undersigned guarantee by this document, or to subordinate payment of the same or of any part thereof to the payment

of any other debt or claim which may at any time be due to you or to any other person; all in the form and according to the terms that you may deem convenient, without further notice or consent of any of the undersigned, all of whom hereby agree to be and to continue liable under this guarantee, independently of the existence, value or status of any collateral, and notwithstanding any substitution, alteration, settlement, agreement, delivery, release, sale application, renewal or extension, and notwithstanding that all of the obligations of the borrower to you which may be outstanding and unpaid at any time may exceed the limit fixed in this guarantee.

And you are hereby authorized at your option to apply to any debt or liability of the undersigned to you now or hereafter existing any moneys or other property, or the proceeds thereof which may now or in the future be deposited with you, or left with you by any of the undersigned or for their account, or to be credited to any of the undersigned, or in which any of the undersigned may have any interest. All items and assets shall be considered as left with you as soon as they shall have been placed in transit to you by mail or by messenger.

No delay on your part, or that of your successors or assignees, in exercising or requiring compliance with any right or obligation under this document, or in taking any action to collect or exercise any right to the debts or obligations hereby; guaranteed, shall be construed as a waiver of any such rights, liens or obligations, nor shall it prejudice your rights under this document; insofar as the undersigned are concerned.

In case of the insolvency or bankruptcy of the borrower or of any of the undersigned or in case that a petition in bankruptcy, or for the appointment of the receiver be filed in any court by the borrower, or against it, or by any of the undersigned or against them, or the attachment of any assets of any of them be decreed, then all instruments, loans, advances, credits and other obligations above referred to shall be considered, for the purposes of this guarantee, immediately due and payable, and the liability of each of the undersigned shall be demandable, all without demand or notice.

This is a continuing guarantee given in order to induce you to enter into, and make loans under a certain Pledge Agreement---------- bearing even date herewith between you and Inmobiliaria Malfa de Puerto Rico, Inc. for the financing of the construction of a housing project in Carolina---------, Puerto Rico, and this guarantee will not be revoked by the undersigned until such time as the above-mentioned Pledge Agreement----------, (as the same may be amended from time to time, which amendments may be made without the consent of or notice to the undersigned) and all terms thereof shall have been fully complied with by all parties and the housing project contemplated thereby shall have been fully completed. No act or omission on your part, of whatever nature, shall affect or prejudice this guarantee under any circumstance, nor will the same be affected by reason of any change that may arise by reason of the death of any partner or partners of the undersigned, of the borrower, or by the advent of one or more new partners provided that until all of the obligations of the borrower to you shall have been paid (notwithstanding that said unpaid obligations may at any time exceed the limit of this guarantee) the undersigned agree that none of them, directly or through their respective agents, executors, administrators, successors in interest or assignees, shall exercise against the borrower the rights allowed them by Section 1742 of the Civil Code of Puerto Rico, 1930 edition, nor shall they exercise against you or the debtors, in any manner, any right of subrogation which the undersigned or any of them may have, nor will they diminish or impair in any manner your rights against the debtor, as long as you shall not have been fully paid for the debts and obligations guaranteed by this document.

You may assign this instrument or any of its rights and powers hereunder, with all or any of the obligations hereby guaranteed, and may assign and/or deliver to any such assignee any of the security in your hands under the terms hereof, and in the event of such rights and powers and of such security (if any such security be so assigned or delivered)

shall have the same rights and remedies as if originally named herein in your place. This agreement shall inure to the benefit of and be enforceable by you and your successors and assigns and shall be binding upon each of the undersigned and the heirs, legal representatives, successors and assigns of each of the undersigned. Without limiting the generality of the foregoing, the undersigned specifically consent to the assignment by you of any and all your rights and interest under this instrument and any and all of your rights and interest in and to any securities held by it under the terms hereof to any financial institution providing financing to you in connection with the transactions contemplated herein.

If this guarantee is signed by more than one person, it will be the joint and several obligations of each and every one of said persons, as among themselves and with the borrower, and it will not be considered revoked or impaired as to any of them by the death of any or of all said persons, or by the revocation or release of any obligation to which this document may refer, by or against any or all of said persons.

Anything herein to the contrary notwithstanding, guarantor shall not be liable in any event under this Guaranty for the payment of interest on the outstanding principal amount at a rate of interest higher than the permitted maximum interest rate chargeable under the laws of the Commonwealth of Puerto Rico.

Executed at ~~San Juan, Puerto Rico~~, this ~~31st day of~~ October, 19 ~~72~~.

INMOBILIARIA MELIA, S. A.

By: _____

_____

_____

_____

AFFIDAVIT NO. ~~10,135~~

Sworn and subscribed to before me by Pedro Fullana, of legal age, married, property owner and resident of San Juan, P.R., in his capacity of attorney in fact of Inmobiliaria Melia, S. A., to me personally known at San Juan, P.R., this 31st. day of October, 1972.

JOSE M. CALDERON CRESCIONI ABOGADO NOTARIO Rio de Puerto Rico

_____
NOTARY PUBLIC

Housing Investment Corporation
470 Ponce de León Avenue
Hato Rey, Puerto Rico

EV 328

Gentlemen:

In order to induce you, from time to time, at your option, to make loans or advances to, or at the request of ~~INMOBILIARIA MELIA DE PUERTO RICO, INC.~~ a corporation organized under the laws of ~~the Commonwealth of Puerto Rico~~, with principal offices in ~~San Juan, Puerto Rico~~, hereinafter called the "borrower"), or to discount notes, bills of exchange, acceptances, checks or any other instruments of evidence of indebtedness (all of which are hereinafter designated "instruments") on which the borrower is or may be liable as maker, endorser, acceptor or otherwise, and to make loans or advances on the basis of any such instrument as security, or to extend credit in any other manner to the borrower, with or without security, the undersigned and each of them hereby guarantee jointly and severally with the borrower, prompt payment at maturity to you, your successors or assigns, of each and every such loan, advance, credit and other obligation hereinabove referred to and also of any other debt, of any nature, which the borrower may now or hereafter owe you, including each and all the instruments above mentioned (whether issued before or after this date) in which you now have or may in the future have or acquire any interest, whether beneficial or security or otherwise, together with any and all expenses in which you may incur in the collection of all or part of any such debt, or to make effective any right herein created, provided however that the several liability of each of the parties subscribing this guarantee shall at no time exceed the sum of $ ~~10,010,000.00~~ in lawful currency of the United States, whatever may be the medium in which the obligation hereby guaranteed may be payable, plus interest which may accrue, whether before or after maturity, on the said obligation, plus costs, expenses and attorneys fees incurred by you. And all of the undersigned hereby waive notice of acceptance of this guarantee, as well as presentment, demand, protest and notices of nonacceptance or nonpayment of each and every such instrument hereinabove referred to, and they likewise waive demand, and notice of non-payment on each and every such loan, advance, credit or other obligations above referred to, and further waive any right to demand that judicial action be taken against any person who may be a party to said instruments, or who may be liable thereon, and further waive any notice or demand to the undersigned under this document, as also the right to plead the statute of limitation on said obligations.

And the undersigned hereby consent and agree that you may at any time or from time to time at your discretion:

1.- Extend or change the maturity, or the manner, place or condition of payment of any and all of said instruments, loans, advances, credits and other obligations or of any part or parts thereof, or of any renewal or renewals thereof;

2.- Substitute, release or deliver all or part of the collateral security of any part or parts thereof (regardless of who supplied it) which you may have, or may acquire in the future, in connection with this guarantee, or with any or all of the instruments, loans, advances, credits and other obligations hereinabove referred to;

3.- Sell or purchase all or any part of the said collateral security at private, public or notarial sale, or at any broker's board, and after deducting the costs, attorneys fees and expenses of any sort incurred in the collection sale and delivery of such collateral, the products of the said sale or sales may be applied by you to any obligation or obligations of the borrower, the payment of which is guaranteed by the undersigned, or of any other debt or liability of the several undersigned to you;

4.- To effect settlements of arrangements with the borrower or with any other person or persons liable thereon, with respect to any or all such instruments, loans, advances, credits or other obligations, the payment whereof the undersigned guarantee by this document, or to subordinate payment of the same or of any part thereof to the payment

of any other debt or claim which may at any time be due to you or to any other person; all in the form and according to the terms that you may deem convenient, without further notice or consent of any of the undersigned, all of whom hereby agree to be and to continue liable under this guarantee, independently of the existence, value or status of any collateral, and notwithstanding any substitution, alteration, settlement, agreement, delivery, release, sale application, renewal or extension, and notwithstanding that all of the obligations of the borrower to you which may be outstanding and unpaid at any time may exceed the limit fixed in this guarantee.

And you are hereby authorized at your option to apply to any debt or liability of the undersigned to you now or hereafter existing any moneys or other property, or the proceeds thereof which may now or in the future be deposited with you, or left with you by any of the undersigned or for their account, or to be credited to any of the undersigned, or in which any of the undersigned may have any interest. All items and assets shall be considered as left with you as soon as they shall have been placed in transit to you by mail or by messenger.

No delay on your part, or that of your successors or assignees, in exercising or requiring compliance with any right or obligation under this document, or in taking any action to collect or exercise any right to the debts or obligations hereby; guaranteed, shall be construed as a waiver of any such rights, liens or obligations, nor shall it prejudice your rights under this document; insofar as the undersigned are concerned.

In case of the insolvency or bankruptcy of the borrower or of any of the undersigned or in case that a petition in bankruptcy, or for the appointment of the receiver be filed in any court by the borrower, or against it, or by any of the undersigned or against them, or the attachment of any assets of any of them be decreed, then all instruments, loans, advances, credits and other obligations above referred to shall be considered, for the purposes of this guarantee, immediately due and payable, and the liability of each of the undersigned shall be demandable, all without demand or notice.

This is a continuing guarantee given in order to induce you to enter into, and make loans under a certain Pledge Agreement bearing even date herewith between you and Inmobiliaria Wolf de Puerto Rico, Inc. for the financing of the construction of a housing project in Carolina, Puerto Rico, and this guarantee will not be revoked by the undersigned until such time as the above-mentioned Pledge Agreement, (as the same may be amended from time to time, which amendments may be made without the consent of or notice to the undersigned) and all terms thereof shall have been fully complied with by all parties and the housing project contemplated thereby shall have been fully completed. No act or omission on your part, of whatever nature, shall affect or prejudice this guarantee under any circumstance, nor will the same be affected by reason of any change that may arise by reason of the death of any partner or partners of the undersigned, of the borrower, or by the advent of one or more new partners provided that until all of the obligations of the borrower to you shall have been paid (notwithstanding that said unpaid obligations may at any time exceed the limit of this guarantee) the undersigned agree that none of them, directly or through their respective agents, executors, administrators, successors in interest or assignees, shall exercise against the borrower the rights allowed them by Section 1742 of the Civil Code of Puerto Rico, 1930 edition, nor shall they exercise against you or the debtors, in any manner, any right of subrogation which the undersigned or any of them may have, nor will they diminish or impair in any manner your rights against the debtor, as long as you shall not have been fully paid for the debts and obligations guaranteed by this document.

You may assign this instrument or any of its rights and powers hereunder, with all or any of the obligations hereby guaranteed, and may assign and/or deliver to any such assignee any of the security in your hands under the terms hereof, and in the event of such rights and powers and of such security (if any such security be so assigned or delivered)

shall have the same rights and remedies as if originally named herein in your place. This agreement shall inure to the benefit of and be enforceable by you and your successors and assigns and shall be binding upon each of the undersigned and the heirs, legal representatives, successors and assigns of each of the undersigned. Without limiting the generality of the foregoing, the undersigned specifically consent to the assignment by you of any and all your rights and interest under this instrument and any and all of your rights and interest in and to any securities held by it under the terms hereof to any financial institution providing financing to you in connection with the transactions contemplated herein.

If this guarantee is signed by more than one person, it will be the joint and several obligations of each and every one of said persons, as among themselves and with the borrower, and it will not be considered revoked or impaired as to any of them by the death of any or of all said persons, or by the revocation or release of any obligation to which this document may refer, by or against any or all of said persons.

Anything herein to the contrary notwithstanding, guarantor shall not be liable in any event under this Guaranty for the payment of interest on the outstanding principal amount at a rate of interest higher than the permitted maximum interest rate chargeable under the laws of the Commonwealth of Puerto Rico.

Executed at San Juan, Puerto Rico, this 31st day of October, 19 72.

FRANCISCO MELIA

AFFIDAVIT NO. 10,136

Sworn and subscribed to before me by Pedro Fullana, of legal age, married, property owner and resident of San Juan, P.R., in his capacity of attorney in fact of Francisco Melia, who is of legal age, married, property owner and resident of Madrid, España, to me personally known at San Juan, P.R., this 31st. day of October, 1972.

NOTARIO Isla de Puerto Rico

NOTARY PUBLIC

October 31st., 1972

Housing Investment Corporation
San Juan, Puerto Rico

RE: Loan $17,812,000.00 to Inmobiliaria
Meliá de Puerto Rico, Inc.
Apertotel - Isla Verde
Carolina, Puerto Rico

Gentlemen:

The undersigned is an attorney at law duly admitted to practice in the Commonwealth of Puerto Rico and in good standing will with the Supreme Court of Puerto Rico for the practices of his profession.

Borrower has full power, authority and legal right to borrow money and mortgage its property as contemplated by the Pledge or Loan Agreement (the Agreement), to execute and deliver the Mortgage Notes, the Mortgages, the Notes, and the Agreement and all other documents executed or to be executed by it as contemplated in the Agreement and all corporate and other action has been duly and effectively taken to authorize the borrowing of the money to be borrowed under the Agreement and the valid execution, delivery and performance of the Mortgage Notes, the Mortgages, the Notes, the Agreement and all other documents referred to the Agreement and to constitute the Agreement and such instruments and documents when executed and delivered to be valid, legally binding and enforceable obligations of the Borrower.

Borrower possesses all franchises and rights necessary for the conduct of its business as now conducted or proposed to be conducted.

Borrower has good and marketable dominion title to all property and assets specifically described or referred to in or otherwise intended to be encumbered by the Mortgage in guaranty of a promissory

note for TEN (10) MILLION DOLLARS and except for the lien of the referred Mortgage none of such property is encumbered by any mortgage or other lien, except a mortgage in guarantee of two (2) promissory notes in the amounts of SEVEN (7) MILLION DOLLARS and ONE MILLION TWO HUNDRED FIFTY THOUSAND DOLLARS ($1,250,000.00) which promissory notes will be endorsed and delivered to HIC simultaneous to this execution.

The Mortgage for SEVEN (7) MILLION DOLLARS and ONE MILLION TWO HUNDRED FIFTY THOUSAND DOLLARS ($1,250,000.00) have been already recorded at page 74 volume 273 of Carolina, property number 10,523, 3rd. Entry, and the Mortgage for TEN MILLIONS DOLLARS ($10,000.000.00) has been duly executed and a certified copy thereof will be duly filed for record in the Registry of the Property of Puerto Rico, Carolina Section, and is entitled to be recorded, and the Mortgage(s) constitute(s) and is a valid and legally enforceable lien upon the property specifically or generally described or referred to therein and intended to be encumbered by the Mortgage(s).

The warranties and representations of the Borrower set forth in the Mortgage are true and correct.

All representations and warranties of the Guarantors set forth in the Guarantee are true and correct.

The Builder is not a party to any contract or agreement or is subject to any charter or other corporate or other legal restrictions of any kind which, in the opinion of the Builder, materially and adversely affects the businesses, properties, assets or conditions, financial or otherwise, of the Builder; and neither the execution and delivery of the Agreement, the consummation of the transactions contemplated herein, nor the compliance with the terms, conditions and provisions of the Agreement and of the Notes will conflict with or result in a breach of the terms, conditions or provisions of, or constitute a default under the charter or by-laws of the Builder or any agreement or other instruments to which it is a party or by which it is bound or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the properties or assets of the Builder, except as permitted by the provisions hereof.

The sewage treatment plant to which the Project is to tie-in is of sufficient capacity and proper design and will provide adequate sewage service to all Apartohotel Units contemplated to be constructed thereon under the provisions hereof. The contracts to tie-in to this sewage treatment plant are being negotiated and the execution shall be a valid and binding on the parties concern.

Publi water service is available to serve the Site and all Apartohotel Units contemplated to be constructed thereon.

All information which has been furnished to HIC with respect

BEST COPY AVAILABLE

to the financial condition of the Borrower and the Guarantors is correct and is complete in regard to the matters purported to be shown thereby to the best knowledge and belief of the undersigned.

HIC above mentioned means Housing Investment Corporation, Lender.

Truly yours,

JOSE ANTONIO LUIÑA

JAL:ivc

EV 334

LAW OFFICES OF
JOSE MANUEL CALDERON CERECEDO
SUITE 824 FOMENTO BUILDING
208 PONCE DE LEON AVENUE
HATO REY, PUERTO RICO 00918

JOSE M. CALDERON GARCIA
JOSE M. CALDERON CERECEDO
WILLIAM J. BIERMANN
EMETERIO COLON
FRANCISCO ALONSO RIVERA
LUIS A. PEREZ CARABALLO
DELIA P. DOOLEY

CORPORATE COUNSEL
BANCO GANADERO

TELEPHONE 765-0065
P.O. BOX 810
HATO REY, P.R. 00919
CABLE ADDRESS: "MANUEL"

October 31st., 1972

Housing Investment Corporation
San Juan, Puerto Rico

Re: Loan $17,812,000.00 to
Inmobiliaria Melia de Puerto
Rico, Inc.
Apartotel - Isla Verde
Carolina, Puerto Rico

Gentlemen:

As per your request, we are forwarding herein an opinion as to the legal validity of the promissory notes in the sum of $7,000,000.00, $1,250,000.00 and $10,000,000.00 and the mortgages guaranteeing the payment of the same, as well as the Loan and Pledge Agreement dated 31st. day of October, 1972 and the supporting documents provided for therein. In such capacity we have reviewed the Policy of Title Insurance issued by Chicago Title Insurance Company, Serial No. 53 001 02 03272 and other documents as we have deem appropriate in connection with this opinion and on the basis of the foregoing we are of the opinion that:

(a) Inmobiliaria Melia de Puerto Rico, Inc. has complied with all legal requirements and is in good standing as a domestic corporation and the same is duly authorized to enter into the above agreements in accordance with its certificate of Incorporation.

(b) Inmobiliaria Melia de Puerto Rico, Inc. is a corporation that has all requisite power, authority, and legal right to own property and to carry on its business as now conducted and as proposed to be conducted or carried on.

(c) Inmobiliaria Melid de Puerto Rico, Inc. possesses the franchises and rights necessary for the conduct of its business as now conducted or proposed to be conducted.

(d) Inmobiliaria Melid de Puerto Rico, Inc. has full power, authority, and legal right to borrow money and to mortgage its property, to execute and deliver the Mortgage Note, for $10,000,000.00 the Mortgage, and all corporate and other action has been duly and effectively taken to authorize the borrowing of the monies borrowed, and the Mortgage and the Mortgage Note have been validly executed and all other documents are legally binding and enforceable obligations of the Corporation.

(e) The Mortgage has been duly executed and certified copy thereof with the necessary internal revenue stamps has been delivered to the Title Company in Puerto Rico, who has presented same to the Registry for recording and issued Title Policy as requested, and said Mortgage is valid and legally enforceable lien upon the property specifically described and intended to be encumbered by said Mortgage.

(f) The Mortgage for SEVEN (7) MILLION DOLIARS and ONE MILLION TWO HUNDRED FIFTY THOUSAND DOLIARS ($1,250,000.00) have been already recorded at page 74 volume 273 of Carolina property number 10,523, 3rd. Entry. The promissory note for $7,000,000.00 guaranteed with the above referred Mortgage was duly endosed in favor of Housing Investment Corporation by Banco de Ponce, and the promissory note for $1,250,000.00 guaranteed with the Mortgage for same amount was duly transferred to Housing Investment Corporation, and Housing Investment Corporation took possession of the referred 2 notes simultaneous to the execution of the Loan and Pledge Agreement, and the Mortgage for TEN MILLION DOLIARS ($10,000,000) has been duly executed and a certified copy thereof will be duly filed for record in the Registry of the Property of Puerto Rico, Carolina Section, and is entitled to be recorded, and the Mortgage(s) constitute(s) and is a valid and legally enforceable lien upon the property specifically or generally described or referred to therein and intended to be encumbered by the Mortgage(s).

(g) The warranties and representations of Inmobiliaria Melid de Puerto Rico, Inc. are correct, true and legally binding.

(h) Inmobiliaria Melid de Puerto Rico, Inc. is in complete and exclusive possession of all of the lands encumbered by the mortgage.

(i) The Title Company has taken no exception to property taxes.

(j) The exceptions mentioned in items two and three of Schedule "B" of the policy are in the process of being eliminated.

As to our statement and opinion in the above matter (i), we have entirely relied in the Title Insurance Policy hereinbefore mentioned.

Very truly yours,

J. M. CALDERON CERECEDO

JMCC/lmm

AMERICAN LAND TITLE ASSOCIATION
LOAN POLICY-1970
(Amended 10-17-70)

EV 337

53 001 02 03272

CHICAGO TITLE INSURANCE COMPANY

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS CONTAINED IN SCHEDULE B AND THE PROVISIONS OF THE CONDITIONS AND STIPULATIONS HEREOF, CHICAGO TITLE INSURANCE COMPANY, a Missouri corporation, herein called the Company, insures, as of Date of Policy shown in Schedule A, against loss or damage, not exceeding the amount of insurance stated in Schedule A, and costs, attorneys' fees and expenses which the Company may become obligated to pay hereunder, sustained or incurred by the insured by reason of:

1. Title to the estate or interest described in Schedule A being vested otherwise than as stated therein;
2. Any defect in or lien or encumbrance on such title;
3. Lack of a right of access to and from the land;
4. Unmarketability of such title;
5. The invalidity or unenforceability of the lien of the insured mortgage upon said estate or interest except to the extent that such invalidity or unenforceability, or claim thereof, arises out of the transaction evidenced by the insured mortgage and is based upon
   (a) usury, or
   (b) any consumer credit protection or truth in lending law;
6. The priority of any lien or encumbrance over the lien of the insured mortgage;
7. Any statutory lien for labor or material which now has gained or hereafter may gain priority over the lien of the insured mortgage, except any such lien arising from an improvement on the land contracted for and commenced subsequent to Date of Policy not financed in whole or in part by proceeds of the indebtedness secured by the insured mortgage which at Date of Policy the insured has advanced or is obligated to advance; or
8. The invalidity or unenforceability of any assignment, shown in Schedule A, of the insured mortgage or the failure of said assignment to vest title to the insured mortgage in the named insured assignee free and clear of all liens.

In Witness Whereof, CHICAGO TITLE INSURANCE COMPANY has caused this policy to be signed and sealed as of the date of policy shown in Schedule A, the policy to become valid when countersigned by an authorized signatory.

CHICAGO TITLE INSURANCE COMPANY

By:

Alvin W. Fong

President.

ATTEST:

Chester C. McCullough

Secretary

Issued by:
HOME TITLE AGENCY OF
PUERTO RICO, INC.
904 Pan Am Building
255 Ponce de Leon Avenue
Hato Rey, Puerto Rico 00917
(809) 765-6145

Copyright 1969 American Land Title Association

EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy:

1. Any law, ordinance or governmental regulation (including but not limited to building and zoning ordinances) restricting or regulating or prohibiting the occupancy, use or enjoyment of the land, or regulating the character, dimensions or location of any improvement now or hereafter erected on the land, or prohibiting a separation in ownership or reduction in the dimensions or area of the land, or the effect of any violation of any such law, ordinance or governmental regulation.
2. Rights of eminent domain or governmental rights of police power unless notice of the exercise of such rights appears in the public records at Date of Policy.
3. Defects, liens, encumbrances, adverse claims, or other matters (a) created, suffered, assumed or agreed to by the insured claimant; (b) not known to the Company and not shown by the public records but known to the insured claimant either at Date of Policy or at the date such claimant acquired an estate or interest insured by this policy or acquired the insured mortgage and not disclosed in writing by the insured claimant to the Company prior to the date such insured claimant became an insured hereunder; (c) resulting in no loss or damage to the insured claimant; (d) attaching or created subsequent to Date of Policy (except to the extent insurance is afforded herein as to any statutory lien for labor or material).
4. Unenforceability of the lien of the insured mortgage because of failure of the insured at Date of Policy or of any subsequent owner of the indebtedness to comply with applicable "doing business" laws of the state in which the land is situated.

CONDITIONS AND STIPULATIONS

Definition of Terms

The following terms when used in this policy mean:

(a) "insured": the insured named in Schedule A. The term "insured" also includes (i) the owner of the indebtedness secured by the insured mortgage and each successor in ownership of such indebtedness except a purchaser, reserving, however, all rights and defenses as to any such successor who acquires the indebtedness by operation of law as distinguished from purchase including, but not limited to, heirs, distributees, devisees, survivors, personal representatives, next of kin or corporate or fiduciary successors that the Company would have had against the successor's transferor), and further includes (ii) any governmental agency or instrumentality which is an insurer or guarantor under an insurance contract or guaranty insuring or guaranteeing said indebtedness, or any part thereof, whether named as an insured herein or not, and (iii) the parties designated in paragraph 2(a) of these Conditions and Stipulations.

(b) "insured claimant": an insured claiming loss or damage hereunder.

(c) "knowledge": actual knowledge, not constructive knowledge or notice which may be imputed to an insured by reason of any public records.

(d) "land": the land described, specifically or by reference in Schedule A, and improvements affixed thereto which by law constitute real property; provided, however, the term "land" does not include any property beyond the lines of the area specifically described or referred to in Schedule A, nor any right, title, interest, estate or easement in abutting streets, roads, avenues, alleys, lanes, ways or waterways, but nothing herein shall modify or limit the extent to which a right of access to and from the land is insured by this policy.

(e) "mortgage": mortgage, deed of trust, trust deed, or other security instrument.

(f) "public records": those records which by law impart constructive notice of matters relating to said land.

CONDITIONS AND STIPULATIONS (Continued on page below Inserts)

EV 339

FORM 3916

LOAN FORM

SCHEDULE A

Number	Date of Policy	Amount of Insurance
53 001 02 03272		$7,000,000.00—

1. Name of Insured: HOUSING INVESTMENT CORPORATION AND/OR ITS ASSIGNS, AS THEIR INTEREST MAY APPEAR.-

2. The estate or interest referred to herein is at Date of Policy vested in:

INMOBILARIA MELIA DE PUERTO RICO, INC.

3. The estate or interest in the land described in this Schedule and which is encumbered by the insured mortgage is:

Fee simple

4. The mortgage, herein referred to as the insured mortgage, and the assignments thereof, if any, are described as follows:

Valid first mortgage made by Inmobilaria Melia de Puerto Rico, Inc.
by Deed No. 72 executed on December 23, 1966 before Notary Public Luis E. Dubón, Jr.
to the insured, to secure the payment of $7,000,000.00—— and interest; ~~filed for record~~ duly recorded at the Registry of the Property of San Juan, Fourth Section Puerto Rico,
on ———————— at page 74 entry —— of Book 273 of Daily Entries.

This operation is for $17,812,000.00 and we will issue another policy for $10,812,000.00 as soon as the disbursements reach the amount of $7,000,000.00.

5. The land referred to in this policy is described as follows:

~~Lot~~ Block

URBAN: Parcel of land located at Cangrejos Arriba Ward of Carolina, comprising an area of 19,600.5519 s/m, duly recorded in the Registry of Property of San Juan, Fourth Section at page 73 of volume 273 of Carolina, second inscription, property No. 10523.-

LOAN FORM

SCHEDULE B

FORM 3917

Policy Number 53 001 02 03272 Loan

EV 340

This policy does not insure against loss or damage by reason of the following:

1. The lien of all taxes for the year 1973-1974 and thereafter, not yet due and payable.

2. Leasehold in favor of Fishman San Juan, Inc., today Trans-Continental San Juan, Inc. and Fishman Puerto Rico, Inc., for a term of 99 years, from March 15, 1962, created by Deed No. 1, executed July 6, 1962 before Samuel R. Quiñones, ratified by Deed No. 2, executed July 6, 1962 before the same notary, both recorded at page 46 of volume 200 of Carolina, property No. 8059, 2nd. inscription.- Extended to property 10523 by means of Deed No. 46, executed on September 25, 1963 before the same notary both recorded at page 71 of volume 273 of Carolina, property 10523, 1st. inscription.-

3. Condition of Sale, recorded at page 188 of volume 103 of Carolina, property 2070, 6th inscription, also ratified by the first inscription to property 8059 as per Deed No. 5, of July 6, 1962 before Celestino Iriarte, Jr., recorded at page 45 of volume 200 of Carolina.-

4. Survey prepared by Arcelio Maldonado, Licence No. 1169, dated February 27, 1968, shows a parcel with an area of 19,593.87 s/m, which is 6.68 s/m less than the area that for this property appears recorded in the Registry.- Survey shows no easements and no improvements.- No title insured beyond the high water mark of the Atlantic Ocean. (Maritime Zone.)

Countersigned ~~Home~~ Title Agency of Puerto Rico, Inc.

By _____
Authorized Signatory

NOTE: The following endorsements appearing after Schedule B are an integral part of this policy.

Schedule B of this Policy consists of pages.

CONDITIONS AND STIPULATIONS (Continued)

2. (a) Continuation of Insurance after Acquisition of Title

This policy shall continue in force as of Date of Policy in favor of an insured who acquires all or any part of the estate or interest in the land described in Schedule A by foreclosure, trustee's sale, conveyance in lieu of foreclosure, or other legal manner which discharges the lien of the insured mortgage, and if the insured is a corporation, its transferee of the estate or interest so acquired, provided the transferee is the parent or wholly owned subsidiary of the insured; and in favor of any governmental agency or instrumentality which acquires all or any part of the estate or interest pursuant to a contract of insurance or guaranty insuring or guaranteeing the indebtedness secured by the insured mortgage; provided that the amount of insurance hereunder after such acquisition, exclusive of costs, attorneys' fees and expenses which the Company may become obligated to pay, shall not exceed the least of:

(i) the amount of insurance stated in Schedule A;

(ii) the amount of the unpaid principal of the indebtedness as defined in paragraph 8 hereof, plus interest thereon, expenses of foreclosure and amounts advanced to protect the lien of the insured mortgage and secured by said insured mortgage at the time of acquisition of such estate or interest in the land; or

(iii) the amount paid by any governmental agency or instrumentality, if such agency or instrumentality is the insured claimant, in the acquisition of such estate or interest in satisfaction of its insurance contract or guaranty.

(b) Continuation of Insurance after Conveyance of Title

The coverage of this policy shall continue in force as of Date of Policy in favor of an insured so long as such insured retains an estate or interest in the land, or holds an indebtedness secured by a purchase money mortgage given by a purchaser from such insured, or so long as such insured shall have liability by reason of covenants of warranty made by such insured in any transfer or conveyance of such estate or interest; provided, however, this policy shall not continue in force in favor of any purchaser from such insured of either said estate or interest or the indebtedness secured by a purchase money mortgage given to such insured.

3. Defense and Prosecution of Actions—Notice of Claim to be given by an Insured Claimant

(a) The Company, at its own cost and without undue delay, shall provide for the defense of an insured in all litigation consisting of actions or proceedings commenced against such insured, or defenses, restraining orders or injunctions interposed against a foreclosure of the insured mortgage or a defense interposed against an insured in an action to enforce a contract for a sale of the indebtedness secured by the insured mortgage, or a sale of the estate or interest in said land, to the extent that such litigation is founded upon an alleged defect, lien, encumbrance, or other matter insured against by this policy.

(b) The insured shall notify the Company promptly in writing (i) in case any action or proceeding is begun or defense or restraining order or injunction is interposed as set forth in (a) above, (ii) in case knowledge shall come to an insured hereunder of any claim of title or interest which is adverse to the title to the estate or interest or the lien of the insured mortgage, as insured, and which might cause loss or damage for which the Company may be liable by virtue of this policy, or (iii) if title to the estate or interest or the lien of the insured mortgage, as insured, is rejected as unmarketable. If such prompt notice shall not be given to the Company, then as to such insured all liability of the Company shall cease and terminate in regard to the matter or matters for which such prompt notice is required; provided, however, that failure to notify shall in no case prejudice the rights of any such insured under this policy unless the Company shall be prejudiced by such failure and then only to the extent of such prejudice.

(c) The Company shall have the right at its own cost to institute and without undue delay prosecute any action or proceeding or to do any other act which in its opinion may be necessary or desirable to establish the title to the estate or interest or the lien of the insured mortgage, as insured, and the Company may take any appropriate action under the terms of this policy, whether or not it shall be liable thereunder, and shall not thereby concede liability or waive any provision of this policy.

(d) Whenever the Company shall have brought any action or interposed a defense as required or permitted by the provisions of this policy, the Company may pursue any such litigation to final determination by a court of competent jurisdiction and expressly reserves the right, in its sole discretion, to appeal from any adverse judgment or order.

(e) In all cases where this policy permits or requires the Company to prosecute or provide for the defense of any action or proceeding, the insured hereunder shall secure to the Company the right to so prosecute or provide defense in such action or proceeding, and all appeals therein, and permit the Company to use, at its option, the name of such insured for such purpose. Whenever requested by the Company, such insured shall give the Company all reasonable aid in any such action or proceeding, in effecting settlement, securing evidence, obtaining witnesses, or prosecuting or defending such action or proceeding, and the Company shall reimburse such insured for any expense so incurred.

4. Notice of Loss—Limitation of Action

In addition to the notices required under paragraph 3(b) of these Conditions and Stipulations, a statement in writing of any loss or damage for which it is claimed the Company is liable under this policy shall be furnished to the Company within 90 days after such loss or damage shall have been determined and no right of action shall accrue to an insured claimant until 30 days after such statement shall have been furnished. Failure to furnish such statement of loss or damage shall terminate any liability of the Company under this policy as to such loss or damage.

5. Options to Pay or Otherwise Settle Claims

The Company shall have the option to pay or otherwise settle for or in the name of an insured claimant any claim insured against or to terminate all liability and obligations of the Company hereunder by paying or tendering payment of the amount of insurance under this policy together with any costs, attorneys' fees and expenses incurred up to the time of such payment or tender of payment by the insured claimant and authorized by the Company. In case loss or damage is claimed under this policy by an insured, the Company shall have the further option to purchase such indebtedness for the amount owing thereon together with all costs, attorneys' fees and expenses which the Company is obligated hereunder to pay. If the Company offers to purchase said indebtedness as herein provided, the owner of such indebtedness shall transfer and assign said indebtedness and the mortgage and any collateral securing the same to the Company upon payment therefor as herein provided.

6. Determination and Payment of Loss

(a) The liability of the Company under this policy shall in no case exceed the least of:

(i) the actual loss of the insured claimant; or

(ii) the amount of insurance stated in Schedule A, or, if applicable the amount of insurance as defined in paragraph 2(a) hereof; or

(iii) the amount of the indebtedness secured by the insured mortgage as determined under paragraph 8 hereof, at the time the loss or damage insured against hereunder occurs, together with interest thereon.

(b) The Company will pay, in addition to any loss insured against by this policy, all costs imposed upon an insured in litigation carried on by the Company for such insured, and all costs, attorneys' fees and expenses in litigation carried on by such insured with the written authorization of the Company.

(c) When liability has been definitely fixed in accordance with the conditions of this policy, the loss or damage shall be payable within 30 days thereafter.

CONDITIONS AND STIPULATIONS (Continued on Reverse Side)

CONDITIONS AND STIPULATIONS (Continued)

7. Limitation of Liability

No claim shall arise or be maintainable under this policy (a) if the Company, after having received notice of an alleged defect, lien or encumbrance insured against hereunder, by litigation or otherwise, removes such defect, lien or encumbrance or establishes the title, or the lien of the insured mortgage, as insured, within a reasonable time after receipt of such notice; (b) in the event of litigation until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals therefrom, adverse to the title or to the lien of the insured mortgage, as insured, as provided in paragraph 3 hereof; or (c) for liability voluntarily assumed by an insured in settling any claim or suit without prior written consent of the Company.

8. Reduction of Liability

(a) All payments under this policy, except payments made for costs, attorneys' fees and expenses, shall reduce the amount of the insurance pro tanto; provided, however, such payments, prior to the acquisition of title to said estate or interest as provided in paragraph 2(a) of these Conditions and Stipulations, shall not reduce pro tanto the amount of the insurance afforded hereunder except to the extent that such payments reduce the amount of the indebtedness secured by the insured mortgage.

Payment in full by any person or voluntary satisfaction or release of the insured mortgage shall terminate all liability of the Company except as provided in paragraph 2(a) hereof.

(b) The liability of the Company shall not be increased by additional principal indebtedness created subsequent to Date of Policy, except as to amounts advanced to protect the lien of the insured mortgage and secured thereby.

No payment shall be made without producing this policy for endorsement of such payment unless the policy be lost or destroyed, in which case proof of loss or destruction shall be furnished to the satisfaction of the Company.

9. Liability Noncumulative

If the insured acquires title to the estate or interest in satisfaction of the indebtedness secured by the insured mortgage, or any part thereof, it is expressly understood that the amount of insurance under this policy shall be reduced by any amount the Company may pay under any policy insuring a mortgage hereafter executed by an insured which is a charge or lien on the estate or interest described or referred to in Schedule A, and the amount so paid shall be deemed a payment under this policy.

10. Subrogation Upon Payment or Settlement

Whenever the Company shall have settled a claim under this policy, all right of subrogation shall vest in the Company unaffected by any act of the insured claimant, except that the owner of the indebtedness secured by the insured mortgage may release or substitute the personal liability of any debtor or guarantor, or extend or otherwise modify the terms of payment, or release a portion of the estate or interest from the lien of the insured mortgage, or release any collateral security for the indebtedness, provided such act occurs prior to receipt by the insured of notice of any claim of title or interest adverse to the title to the estate or interest or the priority of the lien of the insured mortgage and does not result in any loss of priority of the lien of the insured mortgage. The Company shall be subrogated to and be entitled to all rights and remedies which such insured claimant would have had against any person or property in respect to such claim had this policy not been issued, and if requested by the Company, such insured claimant shall transfer to the Company all rights and remedies against any person or property necessary in order to perfect such right of subrogation and shall permit the Company to use the name of such insured claimant in any transaction or litigation involving such rights or remedies. If the payment does not cover the loss of such insured claimant, the Company shall be subrogated to such rights and remedies in the proportion which said payment bears to the amount of said loss, but such subrogation shall be in subordination to the insured mortgage. If loss of priority should result from any act of such insured claimant, such act shall not void this policy, but the Company, in that event, shall be required to pay only that part of any losses insured against hereunder which shall exceed the amount, if any, lost to the Company by reason of the impairment of the right of subrogation.

11. Liability Limited to this Policy

This instrument together with all endorsements and other instruments, if any, attached hereto by the Company is the entire policy and contract between the insured and the Company.

Any claim of loss or damage, whether or not based on negligence, and which arises out of the status of the lien of the insured mortgage or of the title to the estate or interest covered hereby or any action asserting such claim, shall be restricted to the provisions and conditions and stipulations of this policy.

No amendment of or endorsement to this policy can be made except by writing endorsed hereon or attached hereto signed by either the President, a Vice President, the Secretary, an Assistant Secretary, or validating officer or authorized signatory of the Company.

12. Notices, Where Sent

All notices required to be given the Company and any statement in writing required to be furnished the Company shall be addressed to its principal office at 111 West Washington Street, Chicago, Illinois 60602, or at any branch office of the Company.

American Land Title Association
Loan Policy-1970
(Amended 10-17-70)

POLICY OF TITLE INSURANCE

CHICAGO TITLE INSURANCE COMPANY

HOME TITLE AGENCY OF PUERTO RICO, INC.
904 San Ani Building
255 Ponce de Leon Avenue
Hato Rey, Puerto Rico 00917

CHICAGO TITLE INSURANCE COMPANY
111 WEST WASHINGTON STREET
CHICAGO, ILLINOIS 60602

October 31, 1972

Mr. Francisco Román,
Vice President
Housing Investment Corporation
Hato Rey, Puerto Rico

Dear Mr. Román:

The subscribing parties, Inmobiliaria Mellá de Puerto Rico, Inc., Basic Equities Corp., Pedro Fullana and Francisco Mellá, do hereby agree to execute whatever documents or changes may be recommended by the General Counsel of Housing Investment Corporation, José G. González, to the Loan and Pledge Agreement, Promissory Note, Mortgage and related documents to the Agreement, executed on this same date between Inmobiliaria Mellá de Puerto Rico, Inc. and Housing Investment Corporation. It is understood, however, that the changes and/or documents that the subscribing parties have agreed to execute will not change the essential of the transaction as is but will be limited to legal matters within the same. Said document or documents providing such changes will be executed as soon as notified.

Yours very truly,

INMOBILIARIA MELLA DE PUERTO RICO, INC.

BASIC EQUITIES CORP.

PEDRO FULLANA

FRANCISCO MELLA

EV 344

PLEDGE AGREEMENT

AGREEMENT made in the City of San Juan, Puerto Rico, this 31st. day of October, 1972.

BETWEEN

[illegible] a corporation organized under the laws of the Commonwealth of Puerto Rico, duly authorized to do business in the Commonwealth of Puerto Rico, with principal offices at San Juan, Puerto Rico (hereinafter referred to as the "Borrower"); and HOUSING INVESTMENT CORPORATION, a corporation organized and existing under the laws of the State of Delaware, duly authorized to do business in the Commonwealth of Puerto Rico, with principal offices at Hato Rey (San Juan), Puerto Rico (hereinafter referred to as "H.I.C.").

WITNESSETH:

WHEREAS, Borrower is indebted and will hereafter be indebted to H.I.C. for certain loans or advances of money heretofore made and to be made hereafter by H.I.C. to Borrower, and other obligations, under the terms of certain Loan and Pledge Agreement, dated the 31st. day of October, 1972; and

WHEREAS, Borrower has agreed to deliver to H.I.C., in pledge, a mortgage promissory note in the principal sum of Two Million [illegible] payable on demand to the holder, executed by the Borrower under date of October 31, 1972, before Notary Public José Manuel Calderón Carrasco, as appears from Deed No. 430, under Affidavit No. 10,123, hereinafter referred to as "the note", to secure any and all of the present and future obligations and indebtedness of Borrower to H.I.C., including also, but without limitation, the loans or advances contemplated by the Loan Agreement aforementioned; and

NOW, THEREFORE, in consideration of the premises and of other good and valuable considerations, the parties to this Agreement agree as follows:

A. The said Borrower hereby delivers to H.I.C. the above-described mortgage note, in pledge, and to secure and guarantee, absolutely and unconditionally, to H.I.C. the payment of all liabilities of Borrower of whatever nature, whether now existing or hereafter incurred, whether created directly or indirectly by assignment, endorsement or otherwise, and whether matured or unmatured. The said H.I.C. is hereby expressly authorized to repledge the note pledged hereunder, but in such case, neither Borrower, nor the note pledged hereunder shall answer for any amount in excess of such amounts as Borrower may be owing to H.I.C.

B. It is stipulated and agreed by the parties hereto that H.I.C., as holder for value in due course of the pledged note, is hereby vested with

BEST COPY AVAILABLE

the legal title thereto, as pledgee, with full power as such to pass a good title thereto to any person, by delivery or endorsement. It is further stipulated and agreed by the parties hereto that H.I.C., or any other holder of the said note, may at any time, collect the same in its own name by judicial proceedings or otherwise, and foreclose the mortgage lien created as security therefor by deed above-mentioned.

C. If Borrower shall default in the payment of any or all of its liabilities to H.I.C., including charges, fees, interest, and/or commissions, H.I.C. may, at its option, at any time thereafter, alienate the note at such place as H.I.C. may deem best, before a Notary Public, at public auction, upon the giving of the notices required by and as provided under Section 1771 of the Civil Code (31 LPRA 5030). H.I.C. may also, at its option, bring legal action or proceedings for the collection of such hereto expressed liability, and at its option, foreclose this pledge in the same action and proceeding as well as the mortgage lien created as security for the note aforementioned. Out of the proceeds of the sale and/or of the foreclosure, H.I.C. shall apply the net proceeds, after deducting all costs and expenses of the sale and/or of the foreclosure, to the payment of any or all of the liabilities of Borrower to H.I.C., in its absolute discretion, and pay to Borrower any surplus remaining.

D. This pledge is, and shall be deemed to be a contract entered into under and pursuant to the laws of Puerto Rico, and shall be in all respects governed, construed, applied and enforced in accordance with the laws of Puerto Rico.

IN TESTIMONY WHEREOF, the parties have executed these presents, at the place and on the date first above written.

[illegible]

By _____

HOUSING INVESTMENT CORPORATION

By _____

By _____

Affidavit No. 10 134

Sworn and subscribed to before me by [illegible]

NOTARIO
Isla de Puerto Rico

_____

BEST COPY AVAILABLE

EV 346

PROMISSORY NOTE

FOR: $10,000,000.00 ON DEMAND

We jointly and severally promise to pay the holder by endorsement of this obligation, or to his order, the sum of ($10,000,000.00) value received, on demand, at Housing Investment Corporation offices, located at No. 470 Ponce de León Avenue, Hato Rey, Puerto Rico, or at such other place as the holder may from time to time designate to do so. This obligation shall bear interest from this date until total payment at the rate of per annum.

We jointly and severally obligate ourselves to pay the interest of this obligation, as well as the costs, disbursements and attorney's fees which may be occasioned by the efforts to collect this obligation judicially or extrajudicially and to that effect, in case recourse to the courts by the holder of this note becomes necessary, including, but not limited, to foreclosure and Bankruptcy Act proceedings, in order to collect the whole or any portion of the principal and interest due on this note, the undersigned agrees to pay a liquidated sum equal to ($10,000,000.00) to cover expenses of such proceedings, court costs, disbursements and attorney's fees, which amount will become immediately due and payable upon the filing of such proceedings and we expressly submit to the jurisdiction of the Courts of Justice of the San Juan Section of the Superior Court of Puerto Rico for the collection of this obligation. The submission by the maker of this note to the jurisdiction of the Superior Tribunal of Puerto Rico, San Juan Section, will in no way preclude the holder of this note from having access to the United States District Court of Puerto Rico in connection with any action upon this note or the mortgage guaranteeing payment of the same.

We expressly authorize the holder of this obligation to apply to the payment of this note any sum of money on deposit or otherwise in the hands of the said holder belonging to all or any of the makers of this note; provided, however, that neither this authority nor the fact that it may not be exercised, shall alter or modify the obligation herein incurred in any manner.

We hereby waive presentation, protest or notice of dishonor, and likewise waive such statutes of limitations or prescription as might favor us.

This obligation is secured by a mortgage upon real property as indicated in Deed No. , of the day of , 19 , before the subscribing Notary.

San Juan, Puerto Rico, this 31st day of October 19 72

[illegible] INC.

By: /s/ Pedro Pullans

Affidavit No. 20,128

Subscribed and acknowledged to before me by Pedro Pullans, of legal assistant of San Juan, Puerto Rico, in the capacity of executive Vice-President of Inmobiliaria [illegible] Puerto Rico, Inc., to me personally known as such, [illegible] this 31st. day of October, 1972.

/s/ [illegible]

Notary Public

PLEDGE AGREEMENT

AGREEMENT made in the City of San Juan, Puerto Rico, this [illegible] day of [illegible], 19[illegible].

BETWEEN

[illegible], a corporation organized under the laws of the Commonwealth of Puerto Rico, duly authorized to do business in the Commonwealth of Puerto Rico, with principal offices at [illegible] (hereinafter referred to as the "Borrower"); and HOUSING INVESTMENT CORPORATION, a corporation organized and existing under the laws of the State of Delaware, duly authorized to do business in the Commonwealth of Puerto Rico, with principal offices at Hato Rey (San Juan), Puerto Rico (hereinafter referred to as "H.I.C.").

WITNESSETH:

WHEREAS, Borrower is indebted and will hereafter be indebted to H.I.C. for certain loans or advances of money heretofore made and to be made hereafter by H.I.C. to Borrower, and other obligations, under the terms of certain Loan and Pledge Agreement, dated the [illegible] day of [illegible], 19[illegible] and

WHEREAS, Borrower has agreed to deliver to H.I.C., in pledge, a mortgage promissory note in the principal sum of [illegible] payable on demand to the holder, executed by the Borrower under date of [illegible] 19[illegible], before Notary Public Luis E. Dubón, Jr. as appears from Deed No. [illegible], under Affidavit No. [illegible], hereinafter referred to as "the note", to secure any and all of the present and future obligations and indebtedness of Borrower to H.I.C., including also, but without limitation, the loans or advances contemplated by the Loan Agreement aforementioned; and

NOW, THEREFORE, in consideration of the premises and of other good and valuable considerations, the parties to this Agreement agree as follows:

A. The said Borrower hereby delivers to H.I.C. the above-described mortgage note, in pledge, and to secure and guarantee, absolutely and unconditionally, to H.I.C. the payment of all liabilities of Borrower of whatever nature, whether now existing or hereafter incurred, whether created directly or indirectly by assignment, endorsement or otherwise, and whether matured or unmatured. The said H.I.C. is hereby expressly authorized to repledge the note pledged hereunder, but in such case, neither Borrower, nor the note pledged hereunder shall answer for any amount in excess of such amounts as Borrower may be owing to H.I.C.

B. It is stipulated and agreed by the parties hereto that H.I.C., as holder for value in due course of the pledged note, is hereby vested with

the legal title thereto, as pledgee, with full power as such to pass a good title thereto to any person, by delivery or endorsement. It is further stipulated and agreed by the parties hereto that H.I.C., or any other holder of the said note, may at any time, collect the same in its own name by judicial proceedings or otherwise, and foreclose the mortgage lien created as security therefor by deed above-mentioned.

C. If Borrower shall default in the payment of any or all of its liabilities to H.I.C., including charges, fees, interest, and/or commissions, H.I.C. may, at its option, at any time thereafter, alienate the note at such place as H.I.C. may deem best, before a Notary Public, at public auction, upon the giving of the notices required by and as provided under Section 1771 of the Civil Code (31 LPRA 3039). H.I.C. may also, at its option, bring legal action or proceedings for the collection of such hereto expressed liability, and at its option, foreclose this pledge in the same action and proceeding as well as the mortgage lien created as security for the note aforementioned. Out of the proceeds of the sale and/or of the foreclosure, H.I.C. shall apply the net proceeds, after deducting all costs and expenses of the sale and/or of the foreclosure, to the payment of any or all of the liabilities of Borrower to H.I.C., in its absolute discretion, and pay to Borrower any surplus remaining.

D. This pledge is, and shall be deemed to be a contract entered into under and pursuant to the laws of Puerto Rico, and shall be in all respects governed, construed, applied and enforced in accordance with the laws of Puerto Rico.

IN TESTIMONY WHEREOF, the parties have executed these presents, at the place and on the date first above-written.

[illegible] DE PUERTO RICO, S.E.

By: _____

HOUSING INVESTMENT CORPORATION

By: _____

By: _____

Affidavit No. 10,132

Sworn and subscribed to before me by [illegible]

[illegible]

NOTARIO
Isla de Puerto Rico

_____
NOTARY PUBLIC

EV 349

MORTGAGE PROMISSORY NOTE

FOR: $7,000,000.00. -

---FOR VALUE RECEIVED, the undersigned promise to pay jointly and severally on demand----------to bearer----------
---
---
the principal sum of SEVEN MILLION DOLLARS ($7,000,000.00)----------
---
in legal currency of the United States of America, at its domicile----------
----------. The undersigned further promise to pay jointly and severally, interest upon the unpaid balance of the principal of this obligation, at the rate of Eight (8%)------ per cent per annum (upon the basis of a year of 360 days) from the date hereof until the date of full -- payment of this obligation. Interest hereon shall be payable on the same date and in the same place as is hereinabove provided for payment of the principal hereof. ----------

---This note is secured by a mortgage created and constituted by deed number -72- executed on December 23, 1966-----, before Notary Public Luis E. --- Dubón, Jr., encumbering the properties described therein and subject to the -- terms and conditions contained in the said deed. ----------

---The undersigned hereby waive presentment, protest, demand, and notice of non-payment. ----------

---In case recourse to the courts, including any proceedings under the Bankruptcy Act by the holder of this note becomes necessary in order to collect - the whole or a portion of the amount of this note, or in case of foreclosure of the mortgage securing this obligation, the undersigned agree jointly and severally,--- - to pay the court's expenses, costs, disbursements and attorney's fees which may be incurred in a liquidated sum equal to ten per cent (10%)-----
----------of the claim sued, but not to exceed the total sum of SEVEN---
HUNDRED THOUSAND DOLLARS ($700,000.00)----------
which amount will become immediately due and payable upon the filing of such proceedings. ----------

---No reference herein to the deed and no provision of this note or of the said deed shall alter or impair the obligation of the undersigned, which is absolute and unconditional, to pay the principal of and interest on this note and the -- liquidated amount stipulated for costs, disbursements and attorney's fees in - case of judicial proceedings. ----------

---The undersigned hereby submit itself------- to the venue of any court -- selected by the holder of this note in case of legal action for its collection. -

---This note is a negotiable instrument under the Negotiable Instruments Law of Puerto Rico and its negotiability is not affected or impaired by reference to the mortgage deed. The undersigned hereby irrevocably waive any right or defense against any holder of this note for reason of non-negotiability. ----------

San Juan, Puerto Rico, this 23rd. day of December, 1966.

CELIMAR DEVELOPMENT CORPORATION

By: _____
Dr. Raúl Pujol Izquierdo

Affidavit No. 1936-

SUBSCRIBED to before me by Dr. Raúl Pujol Izquierdo, as President of Celimar Development Corporation, who is of legal age, married, [illegible] and resident of San Juan, Puerto Rico, to me personally known at San Juan, Puerto Rico, this 23rd. day of December, 1966.

_____
Notary Public

WITH RECOURSE, PAY TO THE ORDER OF TRUST MORTGAGE CORPORATION.
FEBRUARY 28, 1969.

CELIMAR DEVELOPMENT CORPORATION

By: _____
Dr. Raul Pujol Izquierdo
President

Gerente Auxiliar

Pay to the order of
HOUSING INVESTMENT CORPORATION,
Without Recourse
BANCO DE PONCE
October 31, 1972
Subgerente

WITH RECOURSE, PAY TO THE ORDER OF ASSOCIATED MORTGAGE INVESTORS.
FEBRUARY 28, 1969.

TRUST MORTGAGE CORPORATION

By: _____
José A. Imperatori
Vice President

By: _____
Alfonso Rosselli
Vice President

PAY TO THE ORDER OF, WITHOUT RECOURSE,
BANCO DE ECONOMIAS Y PRESTAMOS and
TALCOTT INTER-AMERICAN CORPORATION

ASSOCIATED MORTGAGE INVESTORS
a Massachusetts business trust

By: _____
Its: Executive Assistant Secretary

The name ASSOCIATED MORTGAGE INVESTORS is the designation of the Trustees for the time being under a Declaration of Trust dated June 1, 1967, as amended, filed with the Secretary of State of the Commonwealth of Massachusetts, and all persons dealing with Associated Mortgage Investors must look only to the trust property for the enforcement of any claims against Associated Mortgage Investors. Neither the Trustees, Shareholders, Officers, Agents or Employees of Associated Mortgage Investors assume any personal liability for obligations entered into on behalf of Associated Mortgage Investors.

PAID TO THE ORDER OF BANCO DE PONCE WITHOUT RECOURSE

BANCO DE ECONOMIAS Y PRESTAMOS

By: _____
Juan Martínez Echevarría
Vice-Presidente Ejecutivo

TALCOTT INTER-AMERICAN CORP.

By: _____
Rafael Rivero
President

Sworn and subscribed before me by Juan Martínez Echevarría and Rafael Rivero, both of legal age, married and residents of San Juan, P. R., Vice-President and President of Banco de Economías y Prestamos and Talcott Inter-American Corp., respectively, personally known to me in San Juan, P. R., this 25th day of June, 1971.

AFFIDAVIT NO. 3454

_____
Notary Public

EV 351

PLEDGE AGREEMENT

AGREEMENT made in the City of San Juan, Puerto Rico, this 21st. day of [illegible], 1972.

BETWEEN [illegible] a corporation organized under the laws of [illegible] duly authorized to do business in the Commonwealth of Puerto Rico, with principal offices at [illegible] (hereinafter referred to as the "Borrower"); and HOUSING INVESTMENT CORPORATION, a corporation organized and existing under the laws of the State of Delaware, duly authorized to do business in the Commonwealth of Puerto Rico, with principal offices at Hato Rey (San Juan), Puerto Rico (hereinafter referred to as "H.I.C.").

WITNESSETH:

WHEREAS, Borrower is indebted and will hereafter be indebted to H.I.C. for certain loans or advances of money heretofore made and to be made hereafter by H.I.C. to Borrower, and other obligations, under the terms of certain Agreement, dated the 21st. day of [illegible], 1972, and [illegible]

WHEREAS, Borrower has agreed to deliver to H.I.C., in pledge, a mortgage promissory note in the principal sum of [illegible] payable on demand to the holder, executed by the Borrower under date of [illegible], 1972, before Notary Public Luis E. Dubón, Jr. [illegible] as appears from Deed No. [illegible], under Affidavit No. [illegible], hereinafter referred to as "the note", to secure any and all of the present and future obligations and indebtedness of Borrower to H.I.C., including also, but without limitation, the loans or advances contemplated by the Loan Agreement aforementioned; and

NOW, THEREFORE, in consideration of the premises and of other good and valuable considerations, the parties to this Agreement agree as follows:

A. The said Borrower hereby delivers to H.I.C. the above-described mortgage note, in pledge, and to secure and guarantee, absolutely and unconditionally, to H.I.C. the payment of all liabilities of Borrower of whatever nature, whether now existing or hereafter incurred, whether created directly or indirectly, by assignment, endorsement or otherwise, and whether matured or unmatured. The said H.I.C. is hereby expressly authorized to repledge the note pledged hereunder, but in such case, neither Borrower, nor the note pledged hereunder shall answer for any amount in excess of such amounts as Borrower may be owing to H.I.C.

B. It is stipulated and agreed by the parties hereto that H.I.C., as holder for value in due course of the pledged note, is hereby vested with

the legal title thereto, as pledgee, with full power as such to pass a good title thereto to any person, by delivery or endorsement. It is further stipulated and agreed by the parties hereto that H.I.C., or any other holder of the said note, may at any time, collect the same in its own name by judicial proceedings or otherwise, and foreclose the mortgage lien created as security therefor by deed above-mentioned.

C. If Borrower shall default in the payment of any or all of its liabilities to H.I.C., including charges, fees, interest, and/or commissions, H.I.C. may, at its option, at any time thereafter, alienate the note at such place as H.I.C. may deem best, before a Notary Public, at public auction, upon the giving of the notices required by and as provided under Section 1771 of the Civil Code (31 LPRA 5030). H.I.C. may, also, at its option, bring legal action or proceedings for the collection of such hereto expressed liability, and at its option, foreclose this pledge in the same action and proceeding as well as the mortgage lien created as security for the note aforementioned. Out of the proceeds of the sale and/or of the foreclosure, H.I.C. shall apply the net proceeds, after deducting all costs and expenses of the sale and/or of the foreclosure, to the payment of any or all of the liabilities of Borrower to H.I.C., in its absolute discretion, and pay to Borrower any surplus remaining.

D. This pledge is, and shall be deemed to be a contract entered into under and pursuant to the laws of Puerto Rico, and shall be in all respects governed, construed, applied and enforced in accordance with the laws of Puerto Rico.

IN TESTIMONY WHEREOF, the parties have executed these presents, at the place and on the date first above written.

[illegible] OF PUERTO RICO, INC.

By: _____

HOUSING INVESTMENT CORPORATION

By: _____

By: _____

Affidavit No. 10,112

Sworn and subscribed to before me by [illegible]

EV 353

MORTGAGE PROMISSORY NOTE

FOR: $1,250,000.00

---FOR VALUE RECEIVED, the undersigned promise to pay jointly and severally on demand ----------to bearer ----------

the principal sum of ONE MILLON TWO HUNDRED FIFTY THOUSAND DOLLARS --- ($1,250,000.00) ----------
in legal currency of the United States of America, at its domicile ----------. The undersigned further promise to pay jointly and severally, - interest upon the unpaid balance of the principal of this obligation, at the rate of Eight (8%)-------per cent per annum (upon the basis of a year of 360 days) from the date hereof until the date of full -- payment of this obligation. Interest hereon shall be payable on the same date and in the same place as is hereinabove provided for payment of the principal hereof. ----------

---This note is secured by a mortgage created and constituted by deed number -72- executed on December 23, ---1966--, before Notary Public Luis E. --- Dubón, Jr., encumbering the properties described therein and subject to the -- terms and conditions contained in the said deed. ----------

---The undersigned hereby waive presentment, protest, demand, and notice of non-payment. ----------

---In case recourse to the courts, including any proceedings under the Bankruptcy Act by the holder of this note becomes necessary in order to collect - the whole or a portion of the amount of this note, or in case of foreclosure of the mortgage securing this obligation, the undersigned agree jointly and ---- severally - to pay the court's expenses, costs, disbursements and attorney's fees which may be incurred in a liquidated sum equal to ten per cent (10%)--- ----------of the claim sued, but not to exceed the total sum of ONE HUNDRED TWENTY FIVE THOUSAND DOLLARS ($125,000.00) ----------
which amount will become immediately due and payable upon the filing of such proceedings. ----------

---No reference herein to the deed and no provision of this note or of the said deed shall alter or impair the obligation of the undersigned, which is absolute and unconditional, to pay the principal of and interest on this note and the -- liquidated amount stipulated for costs, disbursements and attorney's fees in - case of judicial proceedings. ----------

---The undersigned hereby submits itself ------to the venue of any court -- selected by the holder of this note in case of legal action for its collection. -

---This note is a negotiable instrument under the Negotiable Instruments Law of Puerto Rico and its negotiability is not affected or impaired by reference to the mortgage deed. The undersigned hereby irrevocably waive any right or defense against any holder of this note for reason of non-negotiability. ----------

San Juan, Puerto Rico, this 23rd - day of December, 1966.

CELIMAR DEVELOPMENT CORPORATION

By: _____

Dr. Raúl Pujol Izquierdo

Affidavit No. 1937-

SUBSCRIBED to before me by Dr. Raúl Pujol Izquierdo, as President of Celimar Development Corporation, who is of legal age, married, property owner and resident of San Juan, Puerto Rico, to me personally known in San Juan, Puerto Rico, this 23rd. day of December, 1966.

Notary Public

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT COURT OF NEW YORK

----------x

PAINE, WEBBER, JACKSON & CURTIS, Incorporated,

Plaintiff,

-against-

INMOBILIARIA MELIA DE PUERTO RICO, INC.,

Defendant.

----------x

Deposition of the Plaintiff PAINE, WEBBER, JACKSON & CURTIS, INCORPORATED, by LEONARD WILKES, taken by the Defendant pursuant to Notice dated July 30, 1973, and agreement of counsel, at the offices of Messrs. Weiss, Rosenthal, Heller & Schwartzman, 295 Madison Avenue, New York, New York, on November 21, 1973 at 10:35 a.m., before a Notary Public of the State of New York.

MANHATTAN REPORTING CORP
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132 NASSAU STREET
NEW YORK, N. Y. 10038

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BY: RICHARD F. HOROWITZ, ESQ.,
of Counsel

oOo

MR. HOROWITZ: Before I proceed with my questions, counsel for the plaintiff and I have discussed the stipulations that we'd like to apply to this deposition, and my understanding is that they are as follows:

The witness may sign the original of the transcript of the deposition before any Notary Public of any jurisdiction, and if the transcript is signed outside of the State of New York, it may be used with the same force and effect as if it were signed

in the State of New York before a New York Notary Public, notwithstanding the absence of a notarial flag or a certificate.

We are waiving the filing of the transcript of the deposition, and we are stipulating that photocopies of any documents marked for identification at this deposition may be used with the same force and effect of the original documents actually marked; is that correct?

MR. PARSONS: Yes. I think we ought to require -- we have asked for certain documents from the defendants and pursuant to stipulation of the parties, the defendant was going to attempt to produce those documents last Friday.

All that has been produced thus far by the defendant were some documents which were produced today, which do not include a number of the documents requested, such as the document relating to the transaction with HIC, and indeed, what has been produced are basically the

attorney's files here and do not purport to be anything like the full compliance with the request.

We note that, and we are willing to continue the deposition now even so, and I don't think we have to make a long list of what you did produce.

MR. HOROWITZ: I'll concede for the record, although I have produced some documents today, there is no question that I have not produced all documents that you have requested. However, I have produced all of them that I do have. I don't have the remainder of them.

MR. PARSONS: You are making efforts, and as far as you know, your clients have a good many more that are called for?

MR. HOROWITZ: As far as I know, yes.

L E O N A R D W I L K E S, after having been duly sworn by the Notary Public, was examined and testified as follows:

EXAMINATION BY MR. HOROWITZ:

Q What is your name?

A Leonard Wilkes.

Q Where do you live?

A 325 Edward Avenue, Woodmere, Long Island, New York.

Q Mr. Wilkes, are you associated in any way with the plaintiff in this matter, Paine, Webber, Jackson & Curtis, Incorporated?

A Yes, I am.

Q In what capacity, sir?

A I'm vice-president of Paine, Webber and director of the National Mortgage Department.

Q How long have you been with Paine, Webber?

A It's been two years -- March 1st of '74 will be two years.

Q When did you become vice-president, sir?

A March 1, 1972.

Q Did you become head of the mortgage department at the same time?

A Same time.

Q Are you familiar with all of the dealings and transactions between Paine, Webber and the defendant in this matter relating to the contract on the basis of

which suit has been brought?

A I am.

Q When, for the first time, sir, did you hear of the defendant Inmobiliaria Melia De Puerto Rico, Inc.?

A At the time that I joined the company.

Q From whom did you hear of Inmobiliaria Melia De Puerto Rico, Inc.?

A From Mr. John de Saint Phalle.

Q Who is Mr. de Saint Phalle?

A Mr. de Saint Phalle is the vice-president of Paine, Webber, Jackson & Curtis, and director of the Real Estate Finance Department. He is my superior.

Q He still is, sir?

A Still is.

Q Just to clarify any possible confusion in answering my questions, you first heard about it from Mr. de Saint Phalle; is that correct?

A Yes.

Q Do you mean that you heard about it as Inmobiliaria Melia De Puerto Rico, Inc., or was it as something else?

A I heard about it as Melia Hotel to be built in Puerto Rico.

Q You are not sure at this point whether the

specific corporate name referred --

A The name probably appeared in some of the papers given to me, but I don't recall that name being mentioned.

Q I believe you testified that you heard about the hotel to be built some time shortly after you joined Paine, Webber; is that correct?

A Yes.

Q What did Mr. de Saint Phalle tell you about the situation, about Melia and the hotel in Puerto Rico?

A Basically that Paine, Webber had been put in touch with Mr. Berger who represented the Melia interest in North America, and Paine, Webber had a package from Mr. Berger, and was asking whether Paine, Webber could assist in the financing of this proposed development.

Q Did he tell you who put Mr. Berger in touch with Paine, Webber?

A Yes.

Q Who was that?

A Mr. Berger said that it was through one of our local brokerage offices here, midtown, New York.

Q Do you remember which office it was?

A I believe Paine, Webber had one office in New York in the forties or fifties -- that would be the

office.

Q Essentially, did Mr. de Saint Phalle tell you to follow up on this relationship and the possibility of making a deal with the Melia people?

A He did.

Q When, for the first time, did you have any contact, whether it be in writing or orally, with anybody that you understood was connected with Melia?

A At about that time that I joined the company, I contacted Mr. Pedro Fullana.

Q What was the nature of the communication with Mr. Fullana? Was it over the phone, or face-to-face, or how did it happen?

A It was over the phone.

Mr. Fullana was in Puerto Rico and I contacted him there.

Q Would you say that this was within a month after you joined Paine, Webber?

A It was certainly during that first month, yes.

Q What did you and Mr. Fullana say over the phone during the conversation?

A I simply introduced myself, told him that I had the package, and asked him if I could get together

with him to discuss the matter.

Q What did he say?

A He said that I could.

Q Did you arrange to get together with him?

A I did.

Q Did you get together with him?

A I did.

Q Where, sir?

A In Puerto Rico.

Q Where in Puerto Rico?

A In San Juan.

Q How soon after the telephone conversation about which you have testified, did you get together with Mr. Fullana in San Juan, Puerto Rico?

A It was shortly thereafter, I have no actual recollection of the actual date.

Q How long a period of time did you spend with Mr. Fullana when you got together with him in San Juan?

A I spent a morning with him. He drove me to the site of the proposed development, then he drove me to the airport. I left the same day.

Q Did you have any discussions with him about business while you were with him?

A Yes, I did.

Q Please tell us what you recall what you said and what he said?

A I simply reviewed the material that I had, discussed the financing potential with him, had him fill me in on many questions that I had at the time the material was not complete, advised him of my optimism over our ability to provide the financing that was necessary, and went over the procedures that would be required to go further with the case.

Q You say that you had a package. This package, could you be more specific in identifying it, or describing it for us?

A I don't know who it came from, whether it was from Mr. de Saint Phalle or not, but it consisted of Marles -- if I could see that letter first, it might refresh my recollection. That's it over there.

The package consisted of Basic Equities or Marles, Inc, some descriptive literature regarding the Inmobiliaria organization in Spain, and it might also have included a real estate appraisal and a hotel feasibility study. Also, descriptive literature of many of the Melia hotels in Europe, and a brochure of the proposed Melia hotel in Puerto Rico.

Q Now, sir, in connection with answering this

last question, am I correct that you referred to a letter from Mr. Fullana to Mr. de Saint Phalle, dated January 28, 1972?

A I'm not sure if I referred to that letter or not --

Q The letter that you just referred to --

A Oh, just now, yes, I thought you meant in our conversations.

Q Do you know whose handwriting appears in the right-hand side toward the top of the letter?

A Yes, I do.

Q Whose is it, sir?

A William Smith.

Q Who is William Smith?

A Bill Smith is a vice-president in our real estate financial department at Paine, Webber.

Q Do you know who did the underlining that appears on the letter?

A It could have been me. I really don't recall.

Q Was the underlining there when the letter was received?

A I don't recall.

MR. HOROWITZ: I'll ask that this letter of January 20, 1972 from Mr.

Fullana to Mr. de Saint Phalle be marked as Defendant's Exhibit A for identification, please.

(Document referred to above as a letter dated January 28, 1972 from Mr. Fullana to Mr. de Saint Phalle was received and marked as Defendant's Exhibit A for identification, as of this date.)

Q You have described for us the package about which you have testified, and you have explained that it consisted of several items.

Were those several items bound together under one binder, or folder, or something of the sort, or were they physically separate?

A They were physically separate.

Q I take it that you have those items somewhere in your files at Paine, Webber?

A I do not have the items.

Q What became of them?

A They were used in our submissions to the lender.

Q Which lender?

A First Mortgage Investors.

Q And you did not retain copies?

A I did, but one copy was lost by Pan America

Clipper Service.

Q Am I correct that at the conclusion of this meeting with Mr. Fullana in San Juan about which you have testified, nothing conclusive was arranged, no commitment on either side had been made at that meeting; is that correct?

A Nothing had been concluded finally, that's correct.

Q Am I also correct that you told Mr. Fullana in words or substance, that you would check further to see whether you could provide the financing or arrange for the financing that Melia wanted?

MR. PARSONS: I object to the question.

MR. HOROWITZ: To the form of the question?

MR. PARSONS: Yes.

MR. HOROWITZ: What's wrong with the form?

MR. PARSONS: I think it's more leading than need to be.

MR. HOROWITZ: I'm just trying to save time.

Q What did you say --

MR. PARSONS: You can ask him --

MR. HOROWITZ: Let me do it another way.

Q What, if anything, did you say to Mr. Fullana you would do after that meeting with him in Puerto Rico?

A I said that I would be happy to undertake the case and prepare an authorization for him and his partners.

Q Did you prepare an authorization for him and his partners?

A I did.

Q I take it the authorization was in writing?

A It was.

Q Can you identify a copy of it for me?

A There is no copy of that first authorization there, because it was never accepted.

Q Well, did you transmit to Mr. Fullana the proposed authorization?

A I did transmit a purported authorization. I don't recall whether it went to Mr. Fullana, Mr. Berger or Mr. Cohen.

Q Do you have a copy of the proposed, the first proposed authorization?

A I do not.

Q Where might we find that, sir?

A I doubt if there is one in existence. It wasn't accepted, but it was subsequently replaced with one that was signed, and I have no reason to keep one that wasn't signed, and it is very possible that your client might have one.

Q I'm asking in your control.

A In my control I don't keep the extraneous documents.

Q Do you recall approximately how long after the meeting with Fullana in Puerto Rico you sent whoever you sent it to, the proposed authorization?

A I don't recall.

Q Presumably, sir, it was prior to March 24, 1972; is that correct?

A Right. I'm sorry, here is the letter. It was actually prepared and sent on March 13th.

Q Is this letter of March 13, 1972 from you to Mr. Berger the transmittal letter with which you sent the authorization?

A It is.

MR. HOROWITZ: I'll ask that that document be marked as Defendant's B

for identification.

(Document referred to above as a letter dated March 13, 1972 from Mr. Wilkes to Mr. Berger was received and marked Defendant's Exhibit B for identification, as of this date.)

Q Did Mr. Berger or somebody else contact you, sir, after you had sent out Defendant's Exhibit B and the enclosure that went with it?

A Yes. I was contacted.

Q By whom, sir?

A I really don't know, but presumably by Mr. Berger.

Q Was it Mr. Fullana?

A I don't recall, I really don't know.

Q So, it could have been either Mr. Berger, or Mr. Cohen, or Mr. Fullana?

A It wasn't Cohen. I hadn't made contact with him until after this.

Q So, it was either Berger or Fullana, but you believe it was Berger, but you are not sure; is that correct?

A Only because I sent it to him.

Q What form did this contact or communication take, sir?

A To the best of my knowledge, it was a telephone call.

Q Do you recall whether it was a long-distance call?

A I don't.

Q But whoever it was that you spoke to, they called you rather than the other way around, or I should say, he called you rather than the other way around?

A It could have been that I followed up on that. I really don't recall on that.

Q Tell us in words or substance what transpired in this telephone conversation.

A I was advised by whomever I was speaking to that certain of the terms of that original authorization would have to be revised before they would sign it.

Q Did whoever you were speaking with tell you specifically which terms they required to have revised?

A I'm certain they did at the time, yes.

Q Do you have any recollection of which terms they alluded to?

A I have no recollection, but I can almost reconstruct it from what I did subsequently.

Q Let's just stick with your recollection.

A I do not recall.

Q We can always reconstruct and ask you about subsequent developments.

Did you make any memoranda or notes for yourself, about this conversation with either Mr. Berger or Fullana regarding the initial proposed authorization?

A I'm sure that I did.

Q Do you have them, sir?

A I don't.

Q Would they have been destroyed?

A They would just not have been kept.

Q All right.

MR. HOROWITZ: Mr. Parsons, can you show him a copy of the complaint and the exhibits thereto?

Q I direct your attention, sir, to Exhibit A to Paine, Webber's complaint in this matter which is a letter dated March 24, 1972.

Other than the telephone conversation that you testified that you had with either Mr. Berger or Mr. Fullana after you sent out Defendant's Exhibit B and the material enclosed therewith, did you have any other communications with anybody at Melia, prior to March 24, 1972?

A I can't recall for sure.

Q By communications I include oral or in writing.

A I can't recall.

Q Who prepared Exhibit A to the complaint, sir?

A It was prepared by my office.

Q Was it transmitted to someone at Melia for their review?

A It was.

Q To whom was it transmitted?

A It was transmitted to the party who I was talking to.

Q But you don't recall who it was?

A Either Berger or Fullana.

Q Do you remember if you transmitted it to someone in New York City, as opposed to someone in Puerto Rico?

A I don't recall.

MR. PARSONS: I think the record may suggest that it -- maybe if you ask more specific questions about specific items of discussion with people of the defendant prior to this time, there may be some recollections.

You asked a question whether he remembers his conversation with either Berger or Fullana, and a second conversation which may have been Berger or Fullana --

MR. HOROWITZ: Yes.

MR. PARSONS: His general answer was that he didn't have much recollection of that, as I recall. It may be if you ask him about specific points, that he may have some specific recollection.

I don't want to have him precluded from answering those because of his original answer.

MR. HOROWITZ: I hope to exhaust his recollection, and I hope I won't exhaust all of us while I do it.

BY MR. HOROWITZ:

Q When you spoke with Mr. Berger or Mr. Fullana after transmitting to them Exhibit A to the complaint, do you recall the words or substance of the conversation?

A I don't recall.

Q Well, did they say to you that in any respect

they did not like any of the provisions of Exhibit A to the complaint?

A Exhibit A, being which?

Q That you have in front of you, sir.

A Oh, this one. I don't recall what they said.

Q Do you recall their discussing anything with you at the commencement of construction of the hotel in Puerto Rico?

A When?

Q At that conversation, or any other conversation.

A Yes. In other conversations the subject had come up that they had been sitting with this land for some time, and they were interested in getting the financing arranged. They were ready to commence construction.

Q Who told you that?

A It could have been any of the parties at any of the previous meetings that we had or discussions.

Q So far we have talked about a meeting that you had with Mr. Fullana in Puerto Rico, and also a telephone conversation that you had with Mr. Fullana before the meeting in which basically you arranged for the meeting; is that correct?

A Yes.

Q We then talked about your transmitting a first proposed authorization together with Defendant's Exhibit B, and we talked about a conversation you had with either Berger or Fullana about that proposed authorization.

Were there any other communications, sir, other than those that you have just mentioned, prior to your transmitting Exhibit A to the complaint to the defendant?

A There may have been.

Q Do you have any recollection of them, sir?

A I don't have any recollection of specific communications.

2) Q Do you have a recollection that during some conversation prior to your transmitting Exhibit A to the complaint, someone at Melia mentioning that they had had the land for quite some time and would begin construction right after they arranged for the financing?

MR. PARSONS: Mr. Reporter, would you please read that last question back?

(The last question was read back as recorded.)

A Yes.

Q And the answer was yes?

A Yes.

Q But you are unable to tell us when the conversation at which this was mentioned occurred in relationship to the transmitting of the document, the various documents about which you have testified?

A I can't recollect.

Q When you had your conversation with Mr. Berger or Mr. Fullana after transmitting Exhibit A to the complaint, was there any discussion concerning the total amount of the loan that they wanted?

MR. PARSONS: This is after transmitting Exhibit A?

MR. HOROWITZ: Yes.

A After transmitting Exhibit A?

Q Yes, sir.

A The amount they wanted?

Q Yes, sir.

A I doubt it.

Q Was there any transaction after Exhibit A to the complaint with respect to how much of a loan you thought you could obtain for them?

A Yes.

MR. PARSONS: You say after the transmittal of Exhibit A?

MR. HOROWITZ: Yes, sir.

MR. PARSONS: Are you referring to any time after till now?

MR. HOROWITZ: I'm talking about in this conversation that he had with Mr. Berger or Mr. Fullana, some time soon after he transmitted and presumably they received Exhibit A to the complaint.

Q During that conversation was there a conversation of how much of a loan you thought you could get for them?

A Yes, there was.

Q What did you say?

A I told them that I could possibly get them better than $18 million.

Q Did you say how much better?

A At that point, probably not.

Q What was the response, if any, from the person who you were talking to when you said that you could possibly get more than $18 million?

A They were happy to hear it.

Q Did they say that you should, in effect,

pursue to get more than $18 million?

A I don't recall what they said.

Q Did they give you a maximum ceiling amount above which they would be interested?

A I don't recall that.

Q In the telephone conversation soon after you transmitted Exhibit A to the complaint, was there any discussion about the interest on the loan, sir?

A After submitting Exhibit A?

Q Yes, sir.

A That's this right here?

MR. PARSONS: I'm a little confused here. Are you talking not of the predecessor of Exhibit A?

MR. HOROWITZ: I'm talking about Exhibit A.

A May I have the question again read back?

MR. HOROWITZ: Mr. Reporter, would you please read back the last question?

(The question was read back as recorded.)

A To the best of my knowledge, there wasn't.

Q In that same telephone conversation, was there

any discussion about the term of the loan?

A To the best of my recollection, there wasn't.

Q During the same telephone conversation, was there any discussion regarding payment of a fee by Melia to Paine, Webber?

A That had already been agreed upon prior. At that conversation, it was not brought up.

Q The testimony has been that on or about March 13, 1972 you sent Berger, Defendant's Exhibit B with a proposed authorization, and that soon after you sent it you had a discussion with one of them.

In that discussion, was there any mention made of the amount of the loan that they were seeking?

MR. PARSONS: Hold on. It may be before -- before he answers, I want to get something on the record here.

It may be that when -- that your people will have a copy of the original authorization in their files.

MR. HOROWITZ: It's conceivable.

MR. PARSONS: It may be that that will refresh the witness' recollection so that when we eventually see that, his recollection as to exactly what happened in

individual meetings here will be changed.

MR. HOROWITZ: Yes, sir.

MR. PARSONS: So, I'm allowing him to go forward without having all the documents in front of him with that understanding.

MR. HOROWITZ: I understand that, and the practical way, I suppose, of dealing with that with your statement on the record, is that hopefully he will see those documents prior to reviewing and signing the transcript. And if those documents refresh his recollection, he will, in accordance with the appropriate rule of the Rules of Civil Procedure, alter, amend or change his answer, and presumably indicate that the reason he made the change was that his memory was refreshed by this document, that document or the other document.

MR. PARSONS: All right.

MR. HOROWITZ: I understand that.

BY MR. HOROWITZ:

Q During this telephone conversation soon after you sent Berger Defendant's Exhibit B for identification, and the first proposed authorization, was there any mention made of the amount of the loan that you thought you could obtain for Melia?

A At what point in time?

Q During the discussion over the phone that you had with Berger or Fullana right after they received Defendant's Exhibit B, and also the enclosures that went with it which was the first purported authorization.

Was there any mention in that conversation of the amount of the loan you thought you could obtain for them?

A There could have been, but I have no recollection.

Q In that same telephone conversation, was there any discussion of the interest rate?

A There could have been.

Q Do you recall whether there was?

A I have no recollection.

Q During the same telephone conversation, was there any conversation of the term of the loan?

A There could have been, but I have no recol-

lection.

Q During the same telephone conversation, was there any discussion of payment of a fee by Melia to Paine, Webber?

A There very well could have been. I have no definite recollection.

Q The Exhibit A to the complaint is signed in two places. Do you recognize your signature toward the bottom there, sir?

A I do.

Q Do you recognize Mr. Fullana's signature up above Inmobiliaria Melia De Puerto Rico, Inc.?

MR. PARSONS: That's on the second page?

MR. HOROWITZ: Yes, sir.

A Yes, I do.

Q Did Exhibit A, or some copy or original of it come back to you with Mr. Fullana's signature on it?

A It did.

Q Did you affix your signature after it came to you?

A I did.

Q Was there a covering or a transmittal letter with which Exhibit A to the complaint was sent to Mr.

Berger?

A I don't have a copy. There may or may not have been.

Q Was there any correspondence between --

A I can amend that. There was no mail -- this copy was delivered to Mr. Berger in New York. That's probably why there may not have been a covering letter.

Q With that in mind, would it be your recollection that the discussion that you had with him about Exhibit A to the complaint was on it when you hand delivered it to him?

A Correct.

Q You personally hand delivered it?

A I hand delivered it, correct.

Q Did he sign it that day, sir?

A It was signed by Mr. Fullana who was also at that meeting.

Q Mr. Fullana was also there?

A Yes.

Q He signed it that day, sir?

A Wait a moment. No, he didn't. He signed it on the 29th -- he actually mailed it back to me signed on the 29th with a letter.

Q All right. So, you had had this discussion with Mr. Fullana and Mr. Berger on the day that you delivered it, which was on or about March 24th, the date of Exhibit A to the complaint, and the document was actually signed by Mr. Fullana, was sent back to you with this letter of March 29, 1972 from Mr. Berger; is that correct, sir?

A That's correct.

MR. HOROWITZ: I'd like this letter of March 29, 1972 from Mr. Berger to Mr. Wilkes to be marked as Defendant's Exhibit C for identification.

(Document referred to above as a letter dated March 29, 1972 from Mr. Berger to Mr. Wilkes was received and marked as Exhibit C for identification, as of this date.)

Q Did you also receive at or about the same time this letter of March 27, 1972 from Mr. Berger?

A I did.

MR. HOROWITZ: I'll ask that this letter of March 27, 1972 from Mr. Berger to Mr. Wilkes be marked as Defendant's Exhibit D for identification.

(Document referred to above as a letter dated March 27,

1972 from Mr. Berger to Mr. Wilkes was received and marked Defendant's Exhibit D for identification, as of this date.)

Q Defendant's Exhibit D for identification refers to three checks to the order of your firm covering $50,000. Could you show me copies of those checks, sir?

MR. HOROWITZ: For the record, in response to that question, I have been handed what appears to be the original of Exhibit A to the complaint with the actual pen signatures consisting of three pages physically attached to which are copies of three checks, and I'll ask that the document that I just described be marked in its entirety as Defendant's Exhibit E for identification.

(Documents referred to above as the original of Exhibit A to the complaint and three copies of three checks were received and marked Defendant's Exhibit E for identification, as of this date.)

Q Did you have any other communications with either Mr. Berger, Mr. Fullana or Mr. Cohen, between March 24, 1972, the date of Exhibit A to the complaint, and March 29th, the date on which Mr. Berger sent you

his letter or presumably sent you his letter dated that date, together with the signed agreement?

A I can't recollect for sure.

Q On Exhibit C, sir, is the handwritten material towards the bottom yours?

A That's mine.

Q Does it say, "4/3/72, received --" actually received, and it is abbreviated, "4/3/72, accepted and returned 4/3/72," and presumably those are your initials under that?

A They are.

Q Is that what it says?

A That's correct.

Q Was Exhibit B to the complaint which is dated May 22, 1972 executed on or about that date?

A I would have no idea of when it was executed. The execution is not dated.

Q I understand that.

A I have no idea when it was executed.

Q Who prepared the body of that, sir?

A That was prepared by me.

Q I take it you will concede, however, that it was not executed prior to May 22, 1972 since it's dated that day; is that correct?

A I will concede that.

Q I show you a letter of April 28, 1972 from you to Mr. Berger, and I'll ask you if that's your signature there, and if you sent that letter to Mr. Berger.

A That letter was sent, and it's my signature.

MR. PARSONS: There is some underscoring --

MR. HOROWITZ: I was going to ask about that.

Q Did you put the underscoring there?

A I'd like to say that it's my handwriting, but I have no way of knowing.

MR. HOROWITZ: I'll ask that this letter of May 28, 1972 from Mr. Wilkes to Mr. Berger be marked as Defendant's Exhibit F for identification.

(Document referred to above as a letter dated April 28, 1972 from Mr. Wilkes to Mr. Berger was received and marked Defendant's Exhibit F for identification, as of this date.)

Q The lower left-hand portion of the second page of the Defendant's Exhibit F for identification has the words, "AGREED AND ACCEPTED," and then some signature

lines.

Was that ever signed? Was a copy of this document ever signed in behalf of Melia?

A I have no way of knowing that it was ever signed.

Q Well, did you ever receive a signed copy?

A I don't have a signed copy.

Q And you have never seen one?

A I have never seen one.

Q I show you a handwritten sheet of paper on yellow lined paper, and ask you if you recognize the handwriting there, sir.

A The handwriting is mine.

Q At the top, am I correct that the date indicates 5/8/72, indicating May 8, 1972?

A That's correct.

MR. HOROWITZ: I'll ask that the document be marked as Defendant's Exhibit G for identification.

(Document referred to above as a yellow piece of paper containing the date 5/8/72 was received and marked Defendant's Exhibit G for identification, as of this date.)

Q Exhibit A to the complaint which is dated

March 24, 1972, and appears to indicate that you signed it on or about April 3, 1972, and then Defendant's Exhibit F, that is a letter of April 28, 1972 -- did you have any communication whatsoever with anybody from Melia between April 3, 1972 when you signed Exhibit A to the complaint and April 28, 1972, the date of Defendant's Exhibit F?

MR. PARSONS: You are using Melia to mean the defendant?

MR. HOROWITZ: Yes.

A I can't recall specific communications, but I'm sure there were.

Q Let me see if I can probe a little further and perhaps refresh your recollection.

The first sentence of the letter of April 28, 1972, Defendant's Exhibit F for identification says, "In all the excitement of the past couple of weeks regarding the active interest in the Melia project, I neglected to notice that I had run out of authorization time on April 24th."

What excitement of the past couple of weeks were you referring to, specifically, if you recall?

A Yes, I do recall.

We had had interest from a lender, and we had

had conversations back and forth on the point of that interest.

Q Who was that lender, sir?

A First Mortgage Investors.

Q Did you tell anyone from Melia about your conversations back and forth with First Mortgage Investors?

MR. PARSONS: I'm not sure you understood his answer.

THE WITNESS: I'm talking about your people.

Q I see.

Did you have more than one conversation with representatives of the defendant during that period, regarding the First Mortgage Investors situation?

A Yes, I did.

Q Are you able to state for us whom you had those discussions with, sir?

A It could have been with any of three principals.

Q Was it over the phone?

A It would have been over the phone.

Q What did you tell them about the First Mortgage Investors situation?

A I don't recall exactly the conversation, but my policy is to tell a client at that point, that I have interest from a lender, and I probably, at that time, simply told them that I had interest and gave them some ballpark figures or terms that the lender was talking to me about.

Q What reaction did they expect, if any, they being the representatives of the defendant with whom you spoke?

A They were happy about the fact that we were moving along quickly with it.

Q Did they say that you should continue in that direction, or something to that effect?

A They did.

Q Do you recall with whom at First Mortgage Investors you had your contact?

A I do.

Q Who was he or she?

A Mr. Don Grey. He was the Southeastern regional representative of First Mortgage Investors.

Q Where is his office, sir?

A They are incorporated in Massachusetts, and their operating office is in Coral Gables.

Q Coral Gables, Florida?

A Yes, sir.

Q Had you met during this period with Mr. Grey, face-to-face?

A I had not.

Q Had you spoken to him on the phone?

A I had.

Q Had you exchanged correspondence with him?

A I have no evidence of it at this time, probably not.

MR. PARSONS: By exchange, you mean both ways?

MR. HOROWITZ: Let's break it down.

Q Did you send him any correspondence?

A I have no record of it, but probably not. Wait a minute, initially he received an offering brochure, and that's how he came to know about the same.

Q We'll get to the offering brochure a little later.

Other than the brochure, did you send him any letters, or anything written?

A I may have, but I have no copies of such letters.

Q Did you receive any papers from him?

A At that point, no.

Q Please tell us what was said in words or substance at these or during these conversations that you had with Mr. Grey.

A Mr. Grey called me, acknowledged receipt of the brochure, advised me that it was a regional representative that would be handling Puerto Rico, and advised me of the case for FMI, and advised me that he would like to pursue it so far as a formal loan application was concerned.

Q Did you and he discuss any specifics of the proposed loan, such as the principal amount, the interest term of the loan, what it was to be used for?

A In all probability, we discussed what he had already had in front of him, which was my offering brochure.

Q But you don't recall any specifics?

A I don't recall a specific conversation.

Q Is this document that I have in my hand a copy of the offering brochure?

A It may not be the exact one that went out the first time.

Q Was there more than one version of it?

A Yes. There probably was a version the first

time, but it may not have been that version on the covering letter.

Q What do you mean?

A The cover page.

Q Aside from the cover page, there would have been no difference between the two?

A That's right.

Q Were there more than two?

A There could have been a half a dozen.

Q You don't recall whether this was the last or the first or some in between?

A I think it was a much later version.

Q This one that I have in my hand?

A That's correct.

MR. HOROWITZ: I ask that this be marked as Defendant's Exhibit H --

A I could make that a definite statement, because we had changed our letterhead.

MR. HOROWITZ: I'll ask that the brochure that we have been talking about be marked as Defendant's Exhibit H for identification.

(Document referred to above as a brochure was received and marked as Defendant's Exhibit

H for identification, as of this date.)

Q The third paragraph of Defendant's Exhibit F, the letter of April 28, 1972, you state that, "Our lending trust has completed its inspection of the site and its preliminary appraisal of the physical and economic data."

Is the lending trust referred to there, First Mortgage Investors?

A It would have been, yes.

Q Were you told by Mr. Grey that they had physically inspected the purported site in Puerto Rico?

A Correct.

Q Were you told by Mr. Grey that they were satisfied with their preliminary appraisal of the physical and economic data?

A I was told that he was satisfied.

Q Were you told that he was ready to proceed with a formal commitment?

A With a formal application for commitment.

Q Do you know why, sir, Exhibit F was never executed in behalf of the defendant, at least to the best of your ability to reconstruct it at this point?

A I don't know that it wasn't executed. I

don't have a copy of an execution.

Much of my experience with the clients, with my clients was that the document was never executed because there was communication problems between themselves as partners. One partner was in Spain, and one was in the Phillipines during the conversation, and one was in Puerto Rico. Many documents didn't get executed in time, and it never troubled me or stopped the thinkings of the case.

Q One thing that your letter of April 28, 1972 addresses itself to, "I had run out of authorization time on April 24th."

You were seeking an extension of your authorization -- did anybody at the defendant ever tell you that they were against giving you that extension?

3) A Never did. In fact, to the contrary, they asked me to go ahead with the case.

Q All right. Now, kindly explain to us the circumstances under which you prepared the handwritten notes comprising Defendant's Exhibit G for identification.

A These were probably requests made of me by FMI, or their agents in Puerto Rico for additional information other than information that I submitted in

my offering brochure, and they are very usual and customary pieces of information required in a mortgage financing.

Q Did you go back to anybody at Melia to provide any of the information or documents referred to in Exhibit G?

A I did. I discussed it with Jack Berger.

Q Did he both give you information orally and supply you with written documentation?

A At all times he was feeding me information as was requested. I don't recall specifics here, but some of this information was not available at this time, particularly the marketing program which was still in Spain, and was going to come from Spain.

Q Do you recall ever getting the marketing program?

A We did get it in September or October.

Q Is that among the documents that we have set out in front of us?

A The marketing program was returned to Berens in Puerto Rico, and also to FMI in Florida.

Q Do you have a copy of it?

A I don't have a copy.

Q Did Mr. Berger or anybody else connected with

the defendant furnish you with any of the types of information referred to in your handwritten notes, in writing?

A Did they ever do so in writing?

Q Yes.

A Well, yes. I did receive --

Q Other than the document to which you referred?

A Yes. I did receive certain of these items, but I can't recall which I did not receive at this particular time. They could have been sent to me by any of the three individuals.

Plans and specifications came from Fullana. He had them in Puerto Rico. The offering prospectus came from Jack Berger. All of these were written documents, if that is what your question was.

Q Yes, sir.

A The marketing program subsequently came from Spain through Berger, which was a written document.

Q Do you recall any others?

A I don't recall whether I got all of these items or not. The construction contract I don't believe I received. I don't believe we had ever been firmly appointed at that time.

Q Would you say, sir, you got sufficient

information and documentation to satisfy the needs or the requests of FMI?

A No, absolutely did not get sufficient information.

Q What did you not get that you needed to provide them with sufficient information?

A If we are talking about May, the marketing program, for example, didn't come before September or October, and they became the critical point for FMI to commit to their loan committee.

Q Anything else, sir?

A The sales performance and history of the Melia organization which was tied to the marketing program also did not come until September or October with the marketing program.

Q Anything else as to which you claim there was a delay?

A There may have been a delay in the signed financials. I don't recall precisely. That would be less than six months old.

Q Anything else, sir?

A No, that's all that I can recall.

Q Did you, sir, personally prepare Defendant's Exhibit H for identification, and its forerunners and

if there were subsequent versions, the subsequent versions?

A I did.

MR. PARSONS: I think it's understood here that he is not the one that pounded the typewriter keys.

MR. HOROWITZ: I understand that. He offered the material that appears in there.

THE WITNESS: Yes, I did.

Q Exhibit B to the complaint, sir, which is dated May 22, 1972, was sent to Mr. Martin Cohen; is that correct?

A That's correct.

Q Had you told Mr. Martin Cohen that you would be sending him this document prior to sending it to him?

A I don't recall a conversation, but it's my practice to discuss these before I send them out.

Q Do you recall before sending it out to Martin Cohen, discussing with him the principal amount of the loan?

A I had discussed it with A, B or C of the clients many times in a normal source of conversation.

Q I'm addressing myself specifically to the

period between the time when you executed Exhibit A to the complaint on or about April 3, 1972 and the time when you sent Mr. Cohen Exhibit B to the complaint which is dated May 22, 1972.

A I certainly had discussed the matter with him during that period of time.

Q Do you recall the substance of that conversation, sir?

A I don't recall the precise discussion, except telling them that the lender was willing to consider the application for a million dollars, more than we had originally discussed.

Q What was the their reaction to that? What did they say?

A They were very glad to hear it.

Q Did they give you a ceiling amount above which they would not be interested?

A I don't recall any such conversation.

Q During the same period of time, was there any discussion of the interest rate?

A There undoubtedly was discussions of the interest rate.

Q Was there a discussion of the term of the loan?

A There was discussion of the term of the loan.

Q Was there discussion of the amortization of the loan?

A There was.

Q Was there discussion of the lender's fee?

A There was.

Q Was there a discussion regarding the guarantors?

A There was.

Q What was the substance of the discussion regarding the interest rate?

A We were very happy to report to them that we were coming in with an interest rate which was lower than we originally authorized.

Q Exhibit A to the complaint refers to 5.5 percent over New York prime, and you were now telling them that you thought you could get the loan at 4½ percent over prime floating upward or downward?

A Right. It was not a matter of my thinking, it was a bid given to me by the prospective lender.

Q Who, with who?

A With FMI.

Q With who at FMI?

A With either Don Grey or Dwight Callantine.

Q Sir, for my edification and that of the record, what do the words, "Nothing upward or downward," mean in the phrase, "4½ percent over prime floating upward or downward."?

A This means that the interest rate is adjusted monthly during the term of the loan to a figure of 4½ percent over the published prime rate.

Q In other words, whatever the prime rate is for that particular month, it's 4½ percent over that?

A Over that, right.

Q I notice that Exhibit A to the complaint keys the interest figure to New York prime, but that Exhibit B to the complaint doesn't specify which time.

Was there any discussion between yourself and anyone at Melia regarding which prime was referred to in Exhibit B to the complaint?

A No. There wouldn't have been. My authorization was simply my estimate at the time of what a lender might require.

Q Had the lender referred to which prime he was talking about? In other words, there are prime rates in different states --

A Chicago Trust might have pegged it to Chicago's prime. I don't know what their requirement

would be, but most of them peg it to New York prime, so I took the authorization on that basis, and it was quoted by Don Grey, and I made no mention of it, and neither did he.

Q He made no mention of which city's prime he was referring to?

A Not at that point, but if we refer to a subsequent application, we'll get an answer.

Q Well, we'll refer to a subsequent application subsequently.

What was the substance of the discussions regarding the term of the loan during this period that we are adjusting ourselves to? That's between April 3, 1972 and May 22, 1972.

A Simply that I had agreement of the prospective lender of the term of the loan that we had requested.

Q In Exhibit B of the complaint, the written material, or typewritten material regarding the term of the loan ends with the words, "At a standby fee of one-half percent per extension." What does that mean?

A It means that we were estimating that job was going to take 24 months to build.

There was also a possibility particularly

in Puerto Rico that it may have run over. The clients were very anxious that in the event that it did run over, that the lender would recognize this and give them extensions for the construction portion of it, this 60 months.

Q And the borrower would pay a fee of 1½ percent?

A No, one-half percent.

Q Of the principal amount for each extension; is that correct?

A That's correct.

Q The material in Exhibit B relates to, "Amortization, 1 percent per annum, only if the loan is kept on beyond the maximum construction period of 36 months."

Does that mean, sir, that amortization would occur at the rate of 1 percent per annum, beginning after 30 months had elapsed, and the loan was kept on --

MR. PARSONS: You mean 36 months?

A It means that it could have been given after 24 months, if that was all the construction period that was involved. I used 36 there, including the extension, if there were to be an extension.

Q So that this means that in no event would there be any amortization during the first 24 months of the loan; is that correct?

A Correct.

Q Under guarantors it says, "Loans will be guaranteed by Jose Melia, Sr. and Mr. Pedro Fullana."

Did you ever have any discussions with anybody at Melia with respect to guarantees by Mr. Melia, Sr. and/or Mr. Fullana?

A Yes, I did.

Q Was there more than one such discussion?

A I can't recall, but there might have been.

Q Are you able to place the chronology for us?

A Yes.

At my very first meeting with Fullana when that took place, and at my first meeting with Mr. Berger when that took place, each of them advised me that Mr. Melia would give his guarantee.

Q How about Mr. Fullana?

A Mr. Fullana himself told me that he would give his guarantee.

Q Did anybody at Melia ever say to you that either Mr. Melia, Sr., or Mr. Fullana would not be willing to give their personal guarantee?

MR. PARSONS: What period are you talking about?

MR. HOROWITZ: At any time.

A Up to that time, no. Subsequently, that became a problem.

Q When subsequently, did it become a problem?

A It became a problem at a meeting that we had in Coral Gables, on Thursday, June 8, 1972.

Q Is there a document that you have in front of you, sir?

A There is a memorandum to Mr. de Saint Phalle in which I described what occurred at that meeting, and I mentioned the fact that the personal guarantees have come up, and at that time objections were raised by both Fullana and Cohen.

Q Cohen?

A Cohen.

Q What did Cohen object to?

A He objected to the fact that --

MR. PARSONS: I think we might be -- I think your understanding of this in the examination might be advanced here if first you'd ask the witness to explain how it is that the terms of the guarantee

in the May 22nd letter with respect to Cohen's side of it are different from the original application.

The question is if Cohen's Basic Equities would guarantee --

MR. HOROWITZ: I'm going to get to that. I'm talking about Fullana.

MR. PARSONS: If you ask it the other way around --

MR. HOROWITZ: Let me withdraw whatever I had pending, if I had anything pending.

BY MR. HOROWITZ:

Q Who is the Basic Equities referred to under the denomination, "guarantors" in Exhibit D to the complaint?

A The Basic Equities is a real estate company owned and/or controlled by the Cohen family.

Q Who is Marles Equities?

A That's a real estate owned and/or controlled by the Cohen family.

Q Had there ever been any discussions to which you were a party regarding whether Basic Equities or Marles Equities would guarantee the Molia loan?

A Yes. This was originally offered at the very inception of the case, and I think your Exhibit A letter from Pedro Fullana to John de Saint Phalle states that.

Q I take it from Exhibit B of the complaint that at some point in time, it was determined by you that you did not need guarantees from Basic Equities, or Marles Equities?

A That's not correct.

MR. PARSONS: Would you please read that question back again?

(The question was read back as recorded.)

Q This document says, "With Basic Equities-Marles Equities released from any such guarantee." What does that mean, sir?

A I'll explain this thing.

Originally, both Basic and Marles were offered as guarantors, as you can see from the exhibit.

Q Yes, sir.

A It turned out that Basic Equities had preclusions in certain of their loan agreements with institutional lenders prohibiting them to make loans or guarantees to loans which was apparently not known at

the time that these guarantees were offered.

Somewhere in the interim Martin Cohen or his attorneys found this fact to be so, and told us that it would be impossible for Basic to make the guarantees that they had originally offered to make.

Q The same thing with regard to Marles?

A I'm not sure whether Marles was actually precluded from making the loan, for making the guarantee, but Basic definitely was.

As a consequence, we went back to FMI and told them that for reasons beyond our control we could not offer the Basic guarantee.

I answered your question by saying that it wasn't correct that we didn't need it, we didn't know at this point whether it would be needed or not, but if FMI agreed to accept an application with those things taken out --

Q When did they do that?

A Excuse me?

Q When did they do that?

A Some time before I found out that we couldn't offer the guarantee around May 22nd.

Q Did they advise you that they would accept the application without these two guarantees orally or

in writing?

A It was orally.

MR. PARSONS: You are saying that FMI's statement was oral?

MR. HOROWITZ: That's correct.

THE WITNESS: That's right. FMI advised me orally that they would accept an application without the guarantees. We had given them some substitutes.

Q Who at FMI advised you of this?

A It was either Don Grey or Dwight Callantine.

Q Previously, you were referring to a meeting, I believe of June 8, 1972 that you had with someone from Melia, and that you had in front of you a memo from yourself to de Saint Phalle summarizing or recapitulating what happened at that meeting. Would you tell us what happened at that meeting?

A I met with Martin Cohen, Pedro Fullana, Clyde Frame and Noel Montilla, and Don Grey, and Dwight Callantine at FMI's office in Coral Gables.

This was to have been the meeting at which the formal application for FMI was to have been signed, and at that time Pedro Fullana had second thoughts about

personal guarantee.

Q What did he say on the subject of his second thoughts?

A His thought was that since Basic Equities was no longer a guarantor, and since the Melia guarantee was almost academic, since Melia's assets were in Spain and not really available, and that, in effect, he was the guarantor of the 18 million or $19 million --

Q You mean the only guarantor?

A In effect, he thought he was the only guarantor whose assets were attackable, or whatever the word might be.

Q We understand.

A And he objected amongst his own partners to the position that he was being left in.

Q What did his own partners say?

A His own partners walked out with me in the parking lot.

Q Which one was that?

A Martin Cohen was the only one that was there, and he told me that he, himself, wouldn't want to be left holding the bag for the 18 million or $19 million.

What they both wanted to do, what both

Fullana and Cohen wanted to do was make some kind of arrangement with Melia whereby they could be assured in some way that they would be protected by Melia.

Q In the event that they were called upon to come up with the money under the guarantee?

A Right.

Q All right.

Now, as a result of the objection that Mr. Fullana raised to his giving his personal guarantee, what happened at the meeting?

A The meeting was concluded without tendering the formal application or the checks, and it was left that the partners would resolve their problems amongst themselves.

Q Did they ever do that, to your knowledge?

A Subsequently, they did sign an application, but I don't know what accommodations they made.

Q Subsequently, an application to FMI?

A Correct.

Q Okay, we'll get to that.

May I see that memorandum, sir?

MR. HOROWITZ: I'll ask that this two-page memorandum from Mr. Wilkes to Mr. de Saint Phalle dated June 13, 1972

be marked as Defendant's Exhibit I for identification.

(Document referred to above as a two-page memorandum from Mr. Wilkes to Mr. de Saint Phalle dated June 13, 1972 was received and marked Defendant's Exhibit I for identification, as of this date.)

Q Exhibit C to the complaint is a document dated June 26, 1972, sir, and your counsel has been good enough to -- I'm sorry, I have produced it, counsel hasn't, and it is a handwritten letter of June 26, 1972 from you to Martin, and I presume that's Martin Cohen; is that right?

A That's right.

Q Attached to which is what appears to be a copy of Exhibit C to the complaint. Is that correct, sir?

A That's correct.

Q Did the copy of what is Exhibit C to the complaint go with the handwritten note to Martin Cohen physically, physically that way to Mr. Cohen?

A May I see that again?

Q Sure.

A It appears that it did. I referred to the

June 26th re-authorization in my handwritten note.

MR. HOROWITZ: I'll ask that the handwritten note of June 26, 1972 attached to which is the two-page letter from Mr. Wilkes to the defendant, be marked together as one exhibit, Defendant's Exhibit J for identification.

(Documents referred to above as a handwritten note of June 26, 1972 and a two-page letter from Mr. Wilkes to the defendant were marked as Defendant's Exhibit J for identification, as of this date.)

MR. HOROWITZ: For the record, I concede that the copy of June 26, 1972 letter from Wilkes to the defendant is not signed in behalf of the defendant, but is signed in behalf of the plaintiff by Mr. Wilkes.

MR. PARSONS: It was signed by Cohen.

MR. HOROWITZ: You have the original signed document and a copy of it is Exhibit C to the complaint?

MR. PARSONS: Yes.

MR. HOROWITZ: For the record, Mr. Parsons has shown me the original signed by both parties.

BY MR. HOROWITZ:

Q Between June 8th, which is the date of your meeting in Coral Gables in which the guarantee problem was discussed and June 26, 1972, the date of the two communications, comprising Defendant's Exhibit J, had you had discussions with anybody connected with the defendant regarding the guarantee problem?

A Many.

Q With whom, sir? Which of them?

A Probably with all three of them at varying times.

Q Now, in the handwritten note of June 26, 1972, you ask Cohen to rush you among other things, the signed FMI application. Am I correct in assuming from that that the guarantee situation had been resolved by that time?

A Amongst themselves, it had been.

Q How had it been resolved to the extent that they communicated that resolution to you?

A They were going to arrange a bank letter of credit for a million and a half as a substitute for

the Basic Equities that it had been originally offered.

Q Had you advised FMI of that?

A I had.

Q Had they said that was acceptable?

A They said they'd present it to the committee on that basis.

Q Had anyone that you had talked to at FMI said that they did not think it was going to be acceptable?

A No. By them saying it was going to be submitted to the committee, they are saying that it's acceptable to them.

Q Now, we have gone essentially through the period ending June 26, 1972, or thereabouts.

Through the end of that period had anybody of the defendant or representing the defendant told you that the defendant, either through its own representatives or through some other broker or agent had been seeking loan financing or any type of financing on its own?

A Never had.

Q Through this period ending June 26, 1972, had you communicated with any other lending institution other than FMI with respect to the possibility of that

lending institution or those lending institutions lending the money that Melia wanted to borrow?

A Which period of time are you referring to?

Q The period ended June 26, 1972, which is the date of Exhibit C to the complaint.

A Up to that period, is that what your question is?

Q Yes, sir.

A I had communicated with other lenders.

Q Whom, sir?

MR. PARSONS: Off the record.

(Discussion off the record.)

Q Am I correct, sir, that you had communicated during this period ended June 26, 1972 with quite a substantial number of other lending institutions in this connection?

A That is correct.

Q Other than FMI, had you mentioned these communications, these other communications with other lending institutions with anybody of the defendant by specific names of institutions?

A Probably not. It's not my practice to do that.

Q Did there come a time, sir, when you communi-

cated with the Housing Investment Corporation, which we'll call, for shorthand, HIC with respect to this loan?

A I had.

Q Am I correct that HIC is connected in some way with the Chase Manhattan Bank?

A They are a subsidiary.

Q A wholly-owned subsidiary, do you know?

A I think so, but I can't be sure.

Q What was your first communication with HIC with respect to this loan?

A My first communication was dated April 12, 1972, and it was directed to Mr. John Yates president of HIC.

Q When, for the first time, did you mention to anyone connected with the defendant that you had communicated with either Chase Manhattan Bank or HIC?

A I recall that very clearly. I mentioned that when Mr. Berger advised me that his groups had been negotiating with HIC.

Q When was that?

A That would be at the meeting in October, October 4th or 5th, at my luncheon meeting with Mr. Berger, and I believe it was on October 5th.

Q '72?

A That's correct.

Q So, prior to that you and, to the best of your knowledge, no one at Paine, Webber had advised anyone connected with the defendant of the communications that you had had with HIC or Chase?

A It's not our policy to divulge that information to a client. We are authorized to go to any and all lenders.

Q Am I correct, that in April you sent Mr. Yates an offering brochure with respect to Melia?

A That's correct.

Q What happened as a result of your sending that to Mr. Yates?

A I never had any response from Mr. Yates.

Q Never, to this day?

A Well, we had communications after we found out that the client had been talking directly with him.

Q So, between April and October, you had no communications with Yates or anyone from Chase or HIC? No communications other than the initial letters to Mr. Yates, and there was nothing until October?

MR. PARSONS: Are you talking about HIC?

MR. HOROWITZ: Or Yates, or Chase.

A HIC is Yates, with Chase, yes. I had a response from Chase in New York advising me that they were forwarding my brochure to the Chase office in San Juan.

Q That is the sum total of what you heard from Chase between April and October; is that correct?

A That is correct. I had a response from Mr. Perraca of the Chase Manhattan Bank in New York, advising me that he had forwarded my application to the Chase Manhattan Bank in San Juan, in writing.

Q Mr. Perraca said that he was submitting the material to Mr. Lopez of Chase in Puerto Rico and that Mr. Lopez would communicate directly with you if he was interested? Did Mr. Lopez ever communicate with you between April '72 and October '72?

A I can't recall whether he did or not. I have nothing in writing from him.

Q Well, you have his phone number here.

A Yes.

Q Did you speak to him on the phone in Puerto Rico?

A I can't recall. I called him, left word, and he never responded.

Q So, am I correct, sir, at least as of October

you had never had a response from HIC or from Chase in Puerto Rico as to whether either of them were interested in this loan?

A That's correct.

Q Am I also correct that the several other lending institutions with whom you had communicated regarding this loan between April and October of '72, none of them expressed an interest in the loan one way or the other?

A That's not correct.

Q Who did express an interest?

A We had interest from other members.

Q Did you ever communicate that interest to anybody at the defendant between April and October of '72?

A I may have, but we were so far along with FMI on terms that were acceptable to the clients that we didn't pursue it.

Q All right.

I show you a copy of a letter of July 5, 1972 from Mr. Cohen to Mr. Frame, attached to which is what appears to be a signed application, and I ask you if you have seen that document, sir.

A Yes, I have.

Q Who is Berens Mortgage Bankers?

A Berens Mortgage Bankers is a mortgage banking concern based in San Juan, Puerto Rico which had been appointed by FMI as the originating mortgage banker in this transaction.

Q Did Mr. Frame at Berens send you this copy of the letter and the enclosure? What I want to find out is how you got it.

A I have a copy of the letter and the enclosure signed. I don't know how I have it. It could have come to Martin Cohen or Frame.

Q So, it came from one of those two people?

A Right.

MR. HOROWITZ: I will ask that this copy of the July 5, 1972 letter together with the attached application, be marked as Defendant's Exhibit K for identification, please.

(Documents referred to above as a copy of a July 5, 1972 letter, together with an application was received and marked Defendant's Exhibit K for identification, as of this date.)

MR. PARSONS: You saw the application before it went to FMI?

THE WITNESS: I certainly did.

Q Mr. Wilkes, Exhibit C to the complaint, sir, purports to extend the time required for appropriate trustee approval and delivery of the financial commitment document, and I'm referring to the next to the last paragraph --

MR. PARSONS: Would you read that back, please?

MR. HOROWITZ: Let's strike it. Let me withdraw the question. I think I could say it better.

MR. PARSONS: Instead of asking him what it says, why don't you ask him --

MR. HOROWITZ: Yes, let me go at it a little differently.

Q Let me go back to Exhibit B of the complaint, and next to the last paragraph, the second sentence of that paragraph it says, "This will serve to amend our authorization dated March 24, 1972 to the terms and conditions described above, and will further serve to extend that authorization for the time required to process formally through the FMI Trustee Committee approval no later than 30 days from the receipt of your acknowledgement"; is that correct, sir?

A That's what it says, yes.

Q What is the acknowledgement referred to there, sir?

A The acknowledgement is to the terms and conditions that are being quoted to me by FMI, and to the extension of the authorization.

Q I don't know what your acknowledgement receipt of your acknowledgement means there, and that's what I'm trying to find out.

A What I mean by that is that in effect, we have a different set of terms and conditions than what we had in our original, and I'm asking him if these would be acceptable to him.

Q Did you understand the words, "The receipt of your acknowledgement," to mean receipt by you of an executed copy of the Exhibit B to the complaint?

A That's what I meant.

Q So, therefore, under that document you understood that your authorization ended no later than 30 days after you received that document back from defendant signed by defendant?

A No, sir, it doesn't mean that at all.

Q Well, when does it end?

A The authorization ends when we receive written notice from a client that he no longer wishes

to authorize us, which privilege he has after the minimum period, and in this case it was 30 days, but which he has never exercised to this moment.

4) Q What you are saying is that he can't exercise the privilege of terminating your authorization within the 30-day period, but that he can do so thereafter?

A On written notice?

Q On written notice, yes.

A Yes.

MR. PARSONS: Off the record.

(Discussion off the record.)

Q I show you a letter of October 23, 1972 from yourself to Mr. Berger consisting of two pages, physically attached to which is a copy of a one-page letter from yourself to Yates, dated April 12, 1972, and a copy of another letter dated April 12, 1972 from yourself to Mr. Perraca.

Do you have any idea, sir, why those three documents are physically attached to one another?

A Yes.

Q What is the reason, sir?

A At this time, I had been informed by Berger --

MR. PARSONS: The question is

why are they attached to the letter.

Q Why are the three letters attached to each other?

A I was showing Berger the fact that we had previously submitted to both Chase and HIC.

Q So, you sent Berger the top letter together with copies of the other two letters; is that correct?

A That's correct.

MR. HOROWITZ: I'll ask the reporter please to mark as Defendant's Exhibit L for identification, the four pages consisting of a two-page letter from Wilkes to Berger dated October 23, 1972 which bears several handwritten comments, and a copy of a letter of April 12, 1972 from Wilkes to Yates, and a copy of a letter of April 12, 1972 from Wilkes to Perraca.

(Documents referred to above as a two-page letter dated October 23, 1972, a letter of April 12, 1972, and another letter of April 12, 1972 were received and marked for identification as Defendant's Exhibit L, as of this date.)

MR. PARSONS: I take it it's agreed

that these handwritten comments were done by somebody in Melia?

MR. HOROWITZ: I'm going to ask him about the handwritten comments. I don't know until he tells me.

BY MR. HOROWITZ:

Q Do you know who put the handwritten comments, if you will, on Defendant's Exhibit L?

A I would guess they are Berger's, they are not mine. They are not my comments.

Q Were those comments there when the letter went out?

A No, they were not.

Q I show you a carbon of what appears to be a letter of November 1, 1972 from Berger to you, sir, and ask you did you receive that document.

A I did.

Q In fact, do you have the original letter there in front of you?

A I have.

Q Perhaps what we ought to do is mark the original and I'll keep my copy.

MR. HOROWITZ: I'll ask that the original of the letter received by Mr.

Wilkes by Mr. Berger dated November 1, 1972 be marked as Defendant's Exhibit M for identification.

(Document referred to above as a letter dated November 1, 1972 was received and marked Defendant's Exhibit M for identification, as of this date.)

Q I show you a photocopy of a letter of November 2, 1972 consisting of two pages from you to Mr. Yates, physically attached to which is a copy of your copy of a letter dated April 1, 1972 to Mr. Yates.

Did you send these letters to Mr. Yates?

A I did.

Q Were copies of them sent to people at Melia?

A I have a typewritten carbon copy to Peter Haeffner. I don't know who wrote those names in.

Q Do you recall sending those documents to somebody at Melia?

A I don't recall. This could be my secretary's writing. I don't know.

MR. PARSONS: It says in the letter, "We are advising all parties --"

THE WITNESS: Then it probably was, I don't recall.

MR. HOROWITZ: I'll ask that the reporter mark as Defendant's Exhibit N for identification, this copy of a two-page letter of November 2, 1972 from Wilkes to Yates, attached to which is a copy of a one-page letter dated April 12, 1972 from Wilkes to Yates.

(Documents referred to above as a letter dated November 2, 1972 from Wilkes to Yates, and a copy of a one-page letter dated April 12, 1972 from Wilkes to Yates were received and marked Defendant's Exhibit N for identification, as of this date.)

Q I show you, sir, copy of a letter consisting of one page from yourself to Jack Berger, dated November 22, 1972, attached to which is a business card of Mr. Berger, and also an invoice in the sum of $270,000.

I ask you if you sent those documents exclusive of the business card, to Mr. Berger.

A I did.

MR. HOROWITZ: I'll ask that those documents be marked as Defendant's Exhibit O for identification.

(Document referred to above as a copy of a letter dated November 22, 1972 and a business

card were received and marked Defendant's Exhibit O for identification, as of this date.)

Q Previously, you testified, sir, that you learned from HIC or Chase, that the defendant had been negotiating with them with respect to a loan. Was it HIC that you learned they were negotiating with, or was it the Chase, or was it both?

A It was neither, but let me put it into sequence.

Q Okay.

A I first learned of it from Jack Berger.

Q When did you learn of it from Jack Berger?

A At a luncheon meeting that I had with him on October 5th.

Q '72?

A '72.

Q Who else, if anyone, was present at that luncheon meeting with Berger?

A Berger and I, alone.

Q What city did this occur in?

A At Columbia University, New York.

Q What did you say to Mr. Berger, and what did he say to you?

A I had called Berger the day before and advised

him of our rejection by FMI. I suggested that we had another alternative, and that we had already started work on that, and that I would explain it to him in detail the next day at a luncheon, and he agreed to meet me on the 5th.

Q What happened on the 5th?

A On the 5th I showed him some documents from FMI, just to keep our credibility of the fact that FMI, up until almost the day that they rejected us, was expecting the marketing study, and I wanted to show him that we had the serious intent that we had all along, and I told him how sorry I was, but upon the rejection of FMI following up on some of the other leads that we had, among whom was the Chase Manhattan Bank, which had told us they were now interested in the deal, the market had changed, and they were interested.

When I mentioned Chase Manhattan Bank, Berger, for the first time, told me that he or his partners had been in communication with the Chase or HIC in Puerto Rico.

Q Who at Chase or HIC had told you that due to the change in the market, they were now interested?

A Peter Haeffner at Chase.

Q Chase where, sir?

A In New York.

Q When did he tell you this?

A It was either on October 3rd or October 4, 1972.

Q Did you tell him, in effect, that you'd have to speak to the potential borrower?

A I told him that I would speak to the potential borrower the next day.

Q Then get back to Haeffner?

A Well, no. I told Haeffner certainly that we were interested in him following it up, and I didn't have to speak to the borrower. We were still authorized to go to any and all borrowers.

Q And you did speak to him?

A I did. Incidentally, it wasn't me telling Haeffner, it was Mr. de Saint Phalle.

Q When Berger told you that somebody at Melia had spoken directly with Chase or HIC, did they tell you when they had first spoken to whomever they had spoken to?

A Not precisely, but if I recall his statement, it was that they had been negotiating or talking to HIC for some time.

Q Did they tell you for how long the some time

was?

A My impression was it went back a month or more. I don't remember him telling me that.

Q Did Berger tell you who at Chase or HIC they had been speaking with?

A Well, he did tell me, and it was HIC rather than Chase.

Q I see.

A I don't recall whether he gave me the name of a party -- he might have said Yates, although I can't really recall.

Q Did he tell you anything about the substance of the conversations between representatives of HIC and representatives of the defendant?

A Only that they had been negotiating directly, and that they were close to a deal.

Q Did he show you any correspondence between the defendant on the one hand and HIC on the other?

A He didn't show me any correspondence.

Q What did you say when he told you about this?

A I was a little surprised. I reminded him of the fact that we were under exclusive authorization all this time, and also of the fact that we had submitted to both HIC and Chase, and that in accordance with our

authorization, we would earn a fee regardless of how this deal closed.

Q What did he say, if anything, in response to that?

A He said that he couldn't talk for the legalities of it, but he was going to discuss it with his partners.

Q Did he subsequently advise you that he had discussed it with his partners?

A He subsequently sent me a letter that you have already shown me -- may I add to that?

Q Certainly, go ahead.

A At that same meeting we both professed that we didn't want any hard feelings or legal problems.

Jack was very, what shall I say, he was very cooperative, and he was very agreeable to the fact that there shouldn't be any hard feelings, and it was suggested, at that time, that possibly we could compromise in some way.

Q Do you know, sir, whether the proposed loan from HIC to the defendant was ever consummated?

A I have never seen the document, but the building is well under construction, so I assume it has been.

Q Do you have any information other than that as to whether it has been consummated or not?

A No, I have never seen any documents.

Q Has anybody ever told you that the loan was consummated?

A Nobody has ever told me.

Q Has anybody ever told you that the loan was not consummated?

A Nobody has told me that the loan was not consummated.

Q Do you want to say something else, sir?

A I believe -- I'm not absolutely sure that my assistant in Puerto Rico advised me of the fact, not only that the building was under construction, but also that there was a sign on the site stating that the construction loan was made by HIC, which is customary in the business.

Q Who is your assistant in Puerto Rico?

A Mr. Joseph Barriero.

Q Is he still your assistant?

A He still is.

Q I direct your attention, sir, to Paragraph 7 of the body of the complaint, and I request that you read that silently to yourself.

A Okay.

Q Who is this other broker that it's alleged on information and belief that the defendant retained?

A I don't believe the name was ever given to me, although Jack Berger told me that this case was being handled by another broker. In fact, it was suggested that we might compromise, that we share that broker's fee.

So, there is another broker, but I don't know who it would be.

Q Was this told to you at this meeting at the Columbia University Club?

A I was told subsequently. I don't think it came up at that time.

Q Now, Paragraph 8 states, "On information and belief that plaintiff's activity under the contract as amended helped defendant obtain financing from HIC."

On the basis of what facts is that allegation predicated, with respect to plaintiff's activity helping defendant obtain financing from HIC?

A On the basis that we, Paine, Webber had submitted our offering brochure to HIC, which in all likelihood was a document that HIC used in making their determination.

Q Do you have any other facts or information on the basis of which this allegation is based, sir?

A No, I don't.

Q Paragraph 9 of the complaint says, "Defendant has repudiated and breached the contract as amended by refusing to pay the fee provided for therein, despite repeated demands by plaintiff to do so."

How many of these repudiated demands were there?

A I couldn't give you the number. I could tell you in minimum number, but I don't know in maximum.

Q What's the minimum?

A My first demand for payment was at our luncheon meeting with Mr. Berger on October 5th. My second demand was when I actually submitted an invoice payment.

Q Which was marked for identification?

A Yes. You have already marked that for identification.

My third demand was when I received Mr. Berger's letter disputing my position, and at which time I, again, insisted that the money was owed to us, and there may have been subsequent demands by the attorneys, I don't know.

Q In the complaint, Paine, Webber requests damages of $285,000 consisting of 1½ percent of the sum of $19 million, which on information and belief you state is the approximate amount of the loan obtained by defendant from HIC: is that correct, sir?

A I have reason to believe that they received more than $19 million. I can't tell you precisely why, but I believe I have heard that.

Q What have you heard that they have received?

A Something in the neighborhood of $20 million.

Q Who told you that?

A I don't recall.

Q Someone connected with Melia in any way?

A I think -- I'm not sure. I really don't recall.

Q Was it connected with Paine, Webber?

A It wouldn't have been anybody connected with Paine, Webber. If they knew anyone, I would.

Q Was it someone connected with HIC?

A No. I have had no communications with HIC.

Q Was it someone connected with Berens?

A It could have been, I'm not sure.

MR. HOROWITZ: Off the record.

(Discussion off the record.)

MR. HOROWITZ: I'll ask, at this time, that the reporter mark as Defendant's Exhibit P for identification, a batch of documents stapled together, which consist of the following:

A handwritten note from Mr. Wilkes to a person named John, dated 10/3/72; a carbon copy of a two-page letter of August 11, 1972 from Wilkes to Grey; a two-page letter from Callantine to Wilkes, dated August 8, 1972; a photocopy of a letter consisting of one page dated August 22, '72, from Wilkes to Melia, Jr. in Spain; a one-page letter of September 22, 1972 from Callantine to Wilkes; a carbon of a one-page letter of September 26, 1972 from Wilkes to Callantine; a letter consisting of one page dated September 26, 1972 from Callantine to Wilkes; a photocopy of a one-page letter of September 28, 1972 from Callantine to Frame with a note at the bottom beginning with the name "Leonard," and signed, I believe, "Dwight."

Also a photocopy of a check containing the number 3757, from Berens Mortgage Bankers, Inc. to First Mortgage Advisory Corp. in the sum of $5,000, dated July 10, 1972.

All the above will be marked as Defendant's Exhibit P for identification.

(Documents referred to above were received and marked Defendant's Exhibit P for identification, as of this date.)

BY MR. HOROWITZ:

Q Am I correct, sir, that all of the documents that we have marked came from your files or those of Paine, Webber?

A You are correct.

MR. PARSONS: The documents that you have just marked as Defendant's Exhibit P?

MR. HOROWITZ: That's correct.

THE WITNESS: Came from my files, yes.

Q Who is the, "John"?

A John de Saint Phallo.

Q That's on the first page of Defendant's Exhibit P?

A Yes, John de Saint Phalle.

Q Is the handwriting yours, sir?

A My handwriting, yes.

Q And the initials at the bottom are yours?

A My initials.

Q One of the letters that is contained in Defendant's Exhibit P for identification is dated September 28, 1972, and it is from Callantine to Frame.

At the bottom of it there is a typewritten note beginning with the word, "Leonard." Was that note addressed to you, sir?

A That was addressed to me, yes.

Q Am I correct that you had a copy of the letter with the note on it, and that's Dwight Callantine's signature at the bottom, or at least the first name of his signature?

A Correct.

MR. HOROWITZ: I'll ask the reporter to mark as Defendant's Exhibit Q for identification, a copy of a one-page letter from Wilkes to Callantine dated September 26, 1972, attached to it is a

business card of Jack Berger with some handwritten comments on the card.

(Document referred to above as a letter dated September 26, 1972 attached to which is a business card of Jack Berger, were received and marked Defendant's Exhibit Q for identification, as of this date.)

5)

Q Did you send the original of that letter to Callantine?

A I did.

Q Whose handwriting is on the card, the business card?

A That's Jack Berger's handwriting.

Q Do you know why the card with the handwritten note from Jack Berger is attached to the copy of the letter?

A Yes. I wanted to show Dwight Callantine that my client had left for Spain and we had to postpone the meeting.

Jack had advised me by telephone that he would not be able to make the original meeting in Florida because he had urgent business in Spain, but that he would be back on October 4th and that he had received the marketing report.

Q So, you sent Callantine a copy of the business card with the message, the handwritten message on the business card?

A That's correct.

MR. HOROWITZ: For the record, there is also more of the handwritten message on the reverse side of the business card.

Q Previously, there was out on the table a batch of papers that had a long list of people and what not.

MR. HOROWITZ: It's just been handed to me.

MR. PARSONS: I think one document that was marked as an exhibit has been removed from that pile.

MR. HOROWITZ: Yes. I'm content if Mr. Parsons will agree that he'll keep this batch of material intact and available for my inspection, if and when I should call upon him for it, to state for the record that a whole batch of material under a paper clip has been produced and I see no need at this point to mark it for

identification.

I just wanted to ask the witness a question or two about this material as a batch.

MR. PARSONS: That's agreed.

Q I assume, sir, and correct me if I'm wrong, that this batch of material consists of a memorandum, notes and correspondence that you had with various people with respect to this loan transaction, at the top of which is a list of people at lending institutions that you contacted; is that right?

A That's correct.

Q Just one more thing which we may have covered, but I'm not sure, but I just want to button it up -- you told us about how you learned of FMI's rejection of the loan application.

Were you told precisely what the basis of it was? What the rejection was, the reason for the rejection, sir?

A Yes. It's in Dwight Callantine's postscript to me.

Q Are you referring to this letter of September 28, 1972 from Callantine to Frame at the bottom of which is a postscript to you?

A May I look at it?

Q Yes, sure.

A I'm sorry, it's not in the postscript, it's in the body of that letter. I'm told that the reason for the rejection is as to the type of investment that was represented.

Q Were you ever told what he meant by that?

A I don't have to be told, I know what he meant by that.

Q What did he mean by that?

A The fact that this is a hybrid type of situation, a combination of hotel and condominium which puts this in a category unique, and apparently at this point in time FMI was not looking for that type.

Q So, the reason had nothing to do with guarantees and nothing to do with any delay, if there was any delay in furnishing documents?

A I cannot make that statement. We are dealing with a junior loan officer, and the reasons could be any combination. The uniqueness of time can be overcome by a very strong guarantee.

It could very well be that the delays caused a situation whereby at one time that commitment to be put out for that project -- and also by the time they

got around to it six months later because of many delays by our client, they simply didn't have the commitment ledger to put it out.

I would not say that categorically, what I said there is a fact.

Q Basically, you don't know, in this case, and you are just speculating?

A I don't know.

MR. HOROWITZ: I have no further questions in this case.

MR. PARSONS: I have no questions.

MR. HOROWITZ: For the record, Mr. Parsons is taking with him the exhibits that have been marked for identification today, and he will furnish me with a full set of Xerox copies of them, and Mr. Parsons is now checking to see if he has them all.

MR. PARSONS: On Defendant's Exhibit 8 for identification, we would ask that that not be used, in particular, that that not be used for any purpose other than the purposes of this case.

MR. HOROWITZ: Agreed.

MR. PARSONS: Actually, I don't see why you should use any of the rest of them for anything else but this case.

MR. HOROWITZ: That's probably also true, but I'm not intending to.

However, I haven't had the chance to review them that carefully, but I don't have any intention of using them for anything but this case.

MR. PARSONS: If you want to use them for any purpose, would you please check with me first?

MR. HOROWITZ: I can state for the record that I have no purpose in using them at this time.

(Whereupon, at 1:40 p.m. this hearing was concluded.)

oOo

Subscribed and sworn to before me

this day of

C E R T I F I C A T E

STATE OF NEW YORK)
: ss
COUNTY OF NEW YORK)

I, RICHARD BOUDIN, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify:

That LEONARD WILKES, the witness whose deposition is hereinbefore set forth, was duly sworn by me and that such deposition is a true record of the testimony given by such witness.

I further certify that I am not related to any of the parties to this action by blood or marriage; and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 6th day of December 1973.

Richard Boudin

RICHARD BOUDIN

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EV 451

DEWEY, BALLANTINE, BUSHBY, PALMER & WOOD

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ARTHUR A. BALLANTINE
1919-1960
WILKIE BUSHBY
1928-1970

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CABLE: DEWBALAW

December 3, 1973

Richard F. Horowitz, Esq.,
Weiss Rosenthal Heller & Schwartzman,
295 Madison Avenue,
New York, New York 10017.

Re: Paine, Webber v. Inmobiliaria

Enclosed are copies of the Exhibits (A through Q) which were marked at the deposition of Paine, Webber by Leonard Wilkes last week.

Very truly yours,

Daniel L. Carr

Enclosures

EV 452

EDIF. PAN AMERICAN - OFICINA NUM. 1106
PONCE DE LEON NUM. 255 - HATO REY.
PUERTO RICO 00919 - TEL. 764-4750

Please reply to: GPO Box 1805, San Juan, P.R. 00936
telephone: 725-5858

Inmobiliaria Melia de Puerto Rico, Inc.

January 28, 1972

Mr. John de Saint Phalle, Vice-President
Paine, Webber, Jackson & Curtis, Inc.
140 Broadway
New York, New York 10005

Dear Sir:

In accordance to our recent conversation at your office, with reference to the financing of the Melia Apartotel project in Puerto Rico, I am pleased to enclose certified financial statement of Basic Equities & Development Corp., owned by the Cohen family, our 50% partners in the Puerto Rico deal.

I am also enclosing audited financial statement of Marles, Inc., also owned by the Cohen family, the corporation that will additionally secure the interim financing loan of the Apartotel.

For any additional information that you may require in relation to this project, please do not hesitate to contact me.

Very truly yours,

INMOBILIARIA MELIA DE PUERTO RICO, INC.

BY: _____
Pedro Fullana, Executive Vice-President

PF:gr

enclosures

Melia Apartotel
Isla Verde, P.R

PAINE, WEBBER, JACKSON & CURTIS

INCORPORATED

EV 453

MEMBERS
PRINCIPAL STOCK AND
COMMODITY EXCHANGES
ESTABLISHED 1879

140 BROADWAY
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TELEPHONE
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CABLE-PAINWEB, N. Y.

March 13, 1972

Meet Wed 3 PM

Mr. Jack H. Berger,
Executive Vice President
Melia Real Estate Development
30 East 42nd Street
New York, New York 10017

Re: Melia Apartotel
Isla Verde, Puerto Rico

Dear Jack:

I am happy to enclose our Application for Commitment for your proposed 627-unit Condominium Hotel to be built on the ocean in Isla Verde.

I think you will find the major business terms and conditions clearly spelled out in the application, which will involve a standby takeout commitment and an interim construction loan.

Please note that we will require 45 days in order to deliver the final commitments, but hopefully will have preliminary approvals long before the 45-day period.

If these terms and conditions are satisfactory, would you please execute in the spaces provided on all three pages and return to my attention as quickly as possible in order that we might commence the formal processing of the various loan applications.

We look forward to a speedy and successful financing of your Melia project in the Caribbean and hopefully to many more in the future.

Sincerely

Leonard Wilkes

Leonard Wilkes
Vice President-Real Estate

LW/jb
Encl.

EV 454

THE Melia GROUP
MADRID, SPAIN
DIVISIONS: HOTELS
REAL ESTATE DEVELOPMENT

U. S. RESIDENT FINANCIAL OFFICE
30 EAST 42ND STREET
NEW YORK, N. Y. 10017
TEL.: (212) 661-4014

Mr. Leonard Wilkes, Vice President
Paine Webber, Jackson & Curtis, Inc.
(Real Estate Division)
140 Broadway
New York, N. Y. 10005

March 29, 1972

Dear Leonard:

I am pleased to attach hereto, in duplicate, duly executed "Application for Commitment" dated March 24, 1972 regarding the Puerto Rican Melia Apartotel project.

We now look forward to your early advice.

With kind personal regards,

Sincerely,

Jack H. Berger

Jack H. Berger

JHB/de
Encl.

cc: Francisco Melia
Pedro Fullana
Martin Cohen

4/3/72 recd 4/3/72
Accepted & returned 4/3/72.

THE Melia GROUP
MADRID, SPAIN

DIVISIONS: HOTELS
REAL ESTATE DEVELOPMENT

U. S. RESIDENT FINANCIAL OFFICE
30 EAST 42ND STREET
NEW YORK, N. Y. 10017
TEL.: (212) 661-4614

EV 455

Mr. Leonard Wilkes, Vice President
Paine, Webber, Jackson & Curtis, Inc.
(Real Estate Division)
140 Broadway
New York, N. Y. 10005

March 27, 1972

Dear Leonard:

I am pleased to enclose herewith 3 checks to the order of your firm totalling $50,000 and issued respectively by the 3 partners in the Puerto Rican Melia Apartotel venture, namely, Basic Equities & Development Corp., Fidelity Bond & Mortgage Co. of Puerto Rico (Mr. Pedro Fullana) and The Melia Group.

These checks are given to your firm solely as a "good faith deposit" and it is understood, as per your "Application for Commitment" dated March 24th, that the full $50,000 will be refunded to us no later than Friday, April 28, 1972 if you are unable to deliver to us a bona fide commitment prior to that date.

With kind personal regards,

Sincerely,

Jack H. Berger

JHB/de
Enclosures

APPLICATION FOR COMMITMENT

PAINE, WEBBER, JACKSON & CURTIS
Incorporated
National Mortgage Division
140 Broadway
New York, N.Y. 10005

Defendant's Ex. E
Identified
11/21/73
KB.

DATE: March 24, 1972

EV 456

RE: Melia Apartotel
Isla Verde, Puerto Rico

Gentlemen:

We hereby appoint you our sole and exclusive agent to make application for a loan or loans on our behalf, to any lending institutions selected by you, on the property hereinafter designated. This authorization shall become effective upon acceptance by you and shall remain in effect for a period of 30 days from the date of your acceptance and receipt of all necessary supporting data, per submission checklist attached, and such period shall be automatically extended, unless terminated in writing.

1. PROPERTY DESCRIPTION: Approximately 627 Condominium Units

2. GROUND DIMENSIONS OR AREA: Approximately 19,600 Sq. Mtrs.

3. LOAN SECURITY: First Mortgage Note or Bond, secured by the subject property, the applicant corporation, ~~xxxxxxxxxxxxxxxxxxxxxx~~ including personal property and equipment incorporated in the realty and necessary for the operation of the subject real estate. For construction mortgage loans, satisfactory Completion and Performance bonds will also be required of the General Contractor.

4. OTHER SECURITY: Assignment of all ~~xxxxxxxxxxxxxxx~~ sales contracts, as well as ~~xxxxxxxxxxxxxxxxxxx~~ deposits and advances by purchasers or prospective purchasers, to be escrowed or used in accordance with Puerto Rican law. The loans will be further guaranteed by Mr. Jose Melia, Sr., Mr. Pedro Fullana, and Basic Equities and Development Corp.

5. FINANCING REQUESTED:

TYPE OF LOAN	AMOUNT	Interest-Fees-Partic.	TERM	Constant	Note
Standby & Construction Loan Combination	$18.0 Mill	5.5% over New York prime (minimum 10%) (maximum 12%) simple interest on monies drawn, without loan fees to the lender.	60 mos. total incl. 24 mos. constr. plus two 6-mo. extensions if required	1% yr. if loan continued beyond constr. period.	--

6. HOLDBACK & ACHIEVEMENT: NOT APPLICABLE.

There are to be no compensating balances required.

7. PRE-PAYMENT PROVISIONS: Allowed in full at any time without penalty.

Inmobiliaria Melia de Puerto Rico, Inc.

Leonard Wilf

RE: Melia Apartotel
Isla Verde, Puerto Rico

8. REPRESENTATIONS BY APPLICANT:

EV 457

a) Title to subject property will be marketable and insurable.
b) Plans, specifications, contracts, cost breakdowns, appraisals, survey, financial statements and any other pertinent data will be furnished by applicant upon request for your use or for the use of any lender.
c) All fees for appraisals, survey, title insurance, title examination, abstract, legal fees, recordation, tax stamps, acceptance, loan fees or costs will be paid by applicant, in addition to other normal closing costs.
d) Applicant will promptly execute any lender's application and furnish such data, appraisals, and GOOD FAITH DEPOSITS, as required by the lending institution.
e) We will permit you to erect a sign on the property site, at your expense, to indicate that you arranged mortgage financing, and will provide you with a 8" x 10" glossy photograph of the finished building.
f) Applicant warrants current control of the property either in fee ownership, or contract to purchase, or option to purchase, or a leasehold interest, etc., with sufficient time remaining within which to process this loan application to a firm commitment and closing by
g) Title policy to be supplied by borrower, and legal documents to be supplied and prepared by borrower's attorney subject to approval by lender's attorney, (subject to full approval by lender).

9. DEPOSIT AND FEES:

a) We herewith deposit with you, in escrow, the sum of $50,000 as a GOOD FAITH DEPOSIT, to be deposited by you in the "Paine, Webber, Jackson & Curtis, Incorporated-Special Deposit Account." Said sum will be refunded without interest in the event that you do not deliver a loan commitment as herein described.* In the event you do deliver such commitment, this deposit will be credited against the commissions due you in accordance with our agreement. *and within the authorized time limit
b) We agree to pay you a total brokerage fee of 1.5 % of the amount of the ~~such~~ loan commitment delivered to us, which substantially conforms to the terms and conditions set forth hereinabove, and/or any loan commitment accepted by us. Upon delivery of any commitment as aforesaid, THE GOOD FAITH DEPOSIT may be credited by you towards your total fee and the balance of your total fee, if any, shall thereupon become due and payable, at the time of final approval.

10. We understand that any lending institution financing or offering to finance our loan request may be interested in financing other projects in which we are directly or indirectly involved. Therefore, we agree to pay you a fee as designated in paragraph 9(b), in the event that any such lending institution extends financing within thirty-six months of the date hereof, to us, or to any individual, company or corporation with which we or any of our associates, principals, affiliates, and/or subsidiaries have a direct or indirect association.

11. GOVERNING LAWS: The parties agree that the terms and conditions of this agreement shall be construed and governed by the laws of the State of New York, and acknowledge that they have read this Agreement before signing it, and have received an exact copy thereof.

Applicant Inmobiliaria Melia de Puerto Rico, Inc Address GPO Box 1805

By: [signature]

San Juan, Puerto Rico

Title: Executive Vice-President

00936
Zip

Dated: March 27, 1972

Tel. No. (809) 725-5858

Accepted: Paine, Webber, Jackson & Curtis Incorporated

BY: [signature] Title VP - RE Date: April 3, 1972

EV 458

RE: Melia Apartotel
Isla Verde. Puerto Rico

SUBMISSION CHECKLIST
(X) = Items Still Required

O.K. 1. Plot plan showing site and surrounding streets or highways

O.K. 2. Typical apartment plan for each type of apartment showing net leaseable area of each

O.K. 3. Typical floor plan (Key Plan) or rental plan if commercial

O.K. 4. Outline specifications

O.K. 5. Two street maps of city -
Mark one map with site, rent comparables and other points of interest, including downtown area

O.K. 6. Two aerial photos -
Mark one photo with street listings, designation of North, points of interest, major buildings, etc.

O.K. 7. Specific address of subject property

O.K. 8. Site description

O.K. 9. Area and neighborhood description

O.K. 10. Schedule of income from rents and all other sources including parking, recreation etc.

O.K. 11. Itemized expenses (including RE tax details)

O.K. 12. Rent & Sales comparables (three) -
Must include name of development, address, number of units age, distance to subject, apartment type, area of each apartment type, monthly rental, rental per square foot, amenitites and recreational facilities and comments of location, etc.

O.K. 13. Itemized cost of construction, including Architects and Engineers, on and off-site improvement costs, actual land costs, and actual cash equities in the job to date

O.K. 14. Rendering and elevations

O.K. 15. Architect's area calculations of building, core areas, public and recreational areas etc. showing all the components, from net leaseable area to gross building area

O.K. 16. Authorization (attached) with required refundable GOOD FAITH DEPOSIT

O.K. 17. List of sponsors and resumes of their previous real estate activity

O.K. 18. Financial statements of principals and/or guarantors

O.K. 19. Financial statements of applicant mortgagor corporation or entity

O.K. 20. MAI Appraisal or Feasibility Study

21.

22.

Inmobiliaria Melia de Puerto Rico, Inc.

EV 459

Payment on behalf of Inmobiliaria Meliá de Puerto Rico, Inc.
Good faith deposit on Melias Application for Commitment for proposed apartotel condominium project.

BASIC EQUITIES & DEVELOPMENT CORP.
P. O. BOX 1314
HATO REY, PUERTO RICO 00919

No. 1560

101-209
215

March 7, 19 72

PAY TO THE ORDER OF PAINE WEBBER JACKSON & CURTIS $25,000.00

DOLLARS

BASIC EQUITIES & DEVELOPMENT CORP.

BANCO DE PONCE
AVENIDA MUÑOZ RIVERA, PARADA 30
HATO REY, PUERTO RICO

⑆0215⑈0209⑆ 26⑈002914⑈

APARTOTEL MANAGEMENT CORP.
NEW YORK, N. Y.

No. 230

March 20 19 72 1-315/260 ID

PAY TO THE ORDER OF Paine, Webber, Jackson & Curtis, Inc. U.S.$ 18,748.75

Eighteen thousand seven hundred forty eight and 75/100 U.S. DOLLARS

National Bank of North America
INTERNATIONAL DEPARTMENT
NEW YORK, N. Y.

APARTOTEL MANAGEMENT CORP.

Special deposit account:
Good faith deposit for Puerto Rico project

⑆0260⑈0315⑆ 2059⑈05-2559⑈

FIDELITY BOND and MORTGAGE CO. of PUERTO RICO, Inc.
1610 PONCE DE LEON AVENUE
SANTURCE, PUERTO RICO
2-3510-3

No 04456

PAY TO THE ORDER OF PAINE, WEBBER, JACKSON & CURTIS, INC.

DATE 3-16-72

AMOUNT $ 6,251.25

AUTHORIZED SIGNATURE

AUTHORIZED SIGNATURE

TO: THE CHASE MANHATTAN BANK
SANTURCE, PUERTO RICO

⑆0215⑈0206⑆ 703⑈2⑈000556⑈

BEST COPY AVAILABLE

PAINE
WEBBER
JACKSON
& CURTIS
INCORPORATED

Established 1879 Members New York Stock Exchange, Inc. and other Principal Exchanges
140 Broadway, New York, N.Y. 10005 (212) 437-2121

EV 460

April 28, 1972

Mr. Jack Berger
Melia Properties
30 E. 42nd Street
15th Floor
New York, New York

Re: Melia Apartotel
Isla Verde, Puerto Rico

Dear Jack:

In all the excitement of the past couple of weeks regarding the active interest in the Melia project, I neglected to notice that I had run out of authorization time on April 24th.

As you know, I initially requested a 45-60 day authorization, and agreed to reducing it to 30 days with the understanding that if I did have definite preliminary institutional interest in a loan package, that the authorization would obviously be extended through the time required for committee or Trustee approval and delivery of the firm commitments.

As I have explained to you this morning, such a situation does actually exist, and our lending trust has completed its inspection of the site and its preliminary appraisal of the physical and economic data. The Trust is ready to proceed with a formal commitment-application, with specific amounts, terms and conditions to be spelled out at this time. I should have these details early next week.

.../...

EV 461

Would you be good enough therefore to acknowledge this situation in the space provided below, which will automatically extend the authorization for the time required for First Mortgage Investors/Median Mortgage Investors to obtain the required Trustee approval of your loan application.

I thank you again for your confidence and cooperation and look forward to a wrap-up of the commitment within the next week or so.

Best personal regards.

Sincerely

Leonard Wilkes

Leonard Wilkes, Director
National Mortgage Department

LW/jb
cc: Pedro Fullana

AGREED & ACCEPTED

_____

BY: _____

DATE: _____

Melia 5/8/72

EV 462

For Jack Berger -

A) Marketing Program + Exhibits

B) constr. Contractor - + the table

C) Package of Brochures

D) Simple Offering Prospectus (SOP)

E) Sales + Performance History
Melia Madrid

F) Signed Financials - Less than
6 months old

G) Plans + Specs

PAINE
WEBBER
JACKSON
& CURTIS
INCORPORATED

Established 1879 Members New York Stock Exchange, Inc. and other Principal Exchanges
140 Broadway, New York, N.Y. 10005 (212) 437-2121

EV 463

APARTOTEL MELIA PUERTO RICO
State Highway 187 at the Ocean
Isla Verde (Metropolitan San Juan) Puerto Rico

A proposed 627 unit condominium hotel (Apartotel) complex, with full hotel, resort, convention, and shopping facilities, to be built on the ocean in the prestigous Isla Verde area ~~of~~ greater San Juan, Puerto Rico. Sponsor and Manager will be the world famous Melia Organization ($26.0 million net worth), currently operating over 20 Hotels and Apartotels, with over 5000 rooms, which has serviced over 15 million tourists to date, through its 75 travel agencies throughout the world.

STANDBY AND/OR CONSTRUCTION FINANCING REQUESTED

$18,000,000	4⅛% Over Prime (minimum 10.25% interest) Plus: 2% Commitment Fee	5 Years (including 24 mos.) construction

APARTOTEL MELIA PUERTO RICO

SUMMARY

EV 464

PROPERTY DESCRIPTION	:	627 Condominium Hotel efficiencies, with full resort hotel services and facilities including convention halls accomodating over 3600 persons, restaurants, cocktail lounges, cafeterias and coffee shops, night club, commercial and retail space, parking for over 630 cars, pool & recreation area, etc., all encompassed within a three wing structure ranging from four to eleven stories in height, with over 700,000 sq. ft. of gross building area.
LAND AREA	:	210,896 sq. ft. of beach front property (4.79 acres) located in the heart of prestigious Isla Verde, minutes from the El San Juan, Americana, and Racquet Club Hotels, and only 5 minutes from the International Airport. Current valuation is $4,450,000 with $3,450,000 actually expended to date.
TOTAL SELL-OUT	:	$24.0 million as an Apartotel (appraised valuations range upward to $25.3 million).
TOTAL COST	:	$20.0 million
ESTIMATED PROFIT (and cushion for construction overages)	:	$4.0 million
PERMANENT MORTGAGE	:	End Loans will be made by local savings & loan's in an amount ranging to $18.0 million at 75-80% of Purchase Price, for 25 year terms, with interest and discount at the market at time of closing.
CURRENT STATUS	:	Design Plans & Specifications are completed, zoning and use have been approved by the Puerto Rico Planning Board, the Department of Tourism has given its favorable endorsement, and the Commonwealth has granted the various real estate and income tax exemptions and abatements. The project is ready for bidding and construction, which is estimated to be completed in 24 to 30 months from the start.
ARCHITECTS & ENGINEERS	:	Capacete & Marten, San Juan, Puerto Rico
GENERAL CONTRACTOR	:	Will be one of the major Southern Florida or Carribean Builders, financially responsible and bondable, such as Rexatch Construction.

There is no question that in the international hotel field Melia has achieved an outstanding record of development, operation, and orderly growth, and that it ranks in the same league as the well known Hilton International, & Inter-continental & Sonesta chain.

More about the Melia Organization follows.

THE APPLICANT : The applicant will be Inmobiliria Melia de Puerto Rico, Inc., a Puerto Rican corporation, the assets of which are essentially the subject property and development costs to date. Over $2 million cash equity t date.

THE PRINCIPALS :

Sponsors	Net Worth	Current Assets	Total Asset
Jose Melia,Sr. (38%)	$13,501,000	(not shown)	$14,252,000
Basic Equities & Development Corp. (50%)	4,545,000	$3,341,000	35,616,000
Pedro Fullana (12%)	1,531,000	180,000	1,862,000
Totals:	$19,577,000	$3,521,000	$51,730,000

GUARANTORS : In addition to the corporate guarantee, there will be the pro-rata personal guaranty of Mr. Pedro Fullana, Chairman of Fidelity Bond & Mortgage Company of Puerto Rico, and the joint and several guarantees of Mr. & Mrs. Jose Melia, Sr. Jose Melia is Chairman of the Melia Group of Companies, which has a net worth in excess of $26 million, current assets of over $13 million, and total assets of over $51 million.

SPONSOR & MANAGER : The project will be developed by, and later managed by the Melia Organization, which since 1954 has built and managed a chain of over 20 luxury hotel, motel, and apartotel installations, with over 5000 rooms available.

Note particularly that Melia now represents the third largest travel agency in the world, and as such will have available a vast reservoir of tourist and vacationer referrals for their proposed Melia Apartotel in Puerto Rico.

At the present time, Melia also has projects in the design or construction stages in Paris, London, and in Mexico City, Acapulco, Encinada in Mexico, with four others designated for the more important tourist, or vacation cities in Venezuela. In June of 1972 Melia will take over the luxury resort hotels in San Jose de Purera, and in Cristobal Colon, both in Mexico.

APPRAISED VALUATIONS

A) Pro-Forma as a pure condominium with all space sold separately

627)	Efficiency units @ $21,178 average price	$13,279,200
180,396)	S.F. commercial-retail & convention @ $50 per S.F.	9,019,800
502)	Covered Garage Spaces @ $3,000 each	1,506,000
130)	Open parking spaces @ $1,500 each	195,000
	Total Sell-Out = Market Value:	$24,000,000

B) Pro-Forma as an Apartotel - With ownership of efficiency units to include ownership of all commercial retail & convention areas & net income.

627)	Efficiency Units-(@$21,178 average unit price)	$13,279,200
502)	Covered garage spaces @ $3,000 each	1,506,000
130)	Open parking spaces @ $1,500 each	195,000
	Sell-Out:	$14,980,200
PLUS:	180,396 Sq. Ft. retail-food/beverage & hotel operation at assumed minimum net rental of $1,750 per unit, or $10,972,500 year capitalized at 11%	9,975,000
	Total Condominium Value:	$24,955,200

C) Pro-Forma as though apartments & commercial were rentals only

627)	Efficiency apartment units @ $300 per month average rent	$ 2,257,200
180,396)	Sq. Ft. of net commercial leaseable area @$6.00 S.F.	1,082,376
502)	Parking spaces @ $25 per month	150,600
	Gross Rental Income:	$ 3,490,176
	Less: Vacancy Reserve @ 5%	175,176
	Effective Gross Income:	3,315,000
	Operating - Taxes & Reserves	
	Apartments @ 35% of Gross - $790,000	
	Commercial @ $.50 per S.F. - 90,000	
	Garages @ 20% Gross - 30,000	910,000
	Net Income Available:	$ 2,405,000

Capitalized at 9-1/2% = Economic Value of $25.3 Mill

D) Pro-Forma as a Pure Hotel Operation
(627 rooms with full hotel & convention facilities assuming 70% occupancy and no gambling casino)

Room Revenue (@$19.40 per guest day)		$ 5,413,700
Food & Beverage		4,060,200
Cabana Club		216,500
Retail Rents & Other Income		189,500
Telephone-Valet-Laundry Income		256,000
Total Revenues		$10,135,900
Cost of Sales	$1,440,000	
Payroll Costs	2,680,000	
Unallocated	3,235,000	7,355,000
Net Income Available:		$ 2,780,900

Capitalized @ 11% = Value: $25.3 Million

DEVELOPMENT COSTS & EQUITIES

General Contract (700,757 Sq. Ft. GBA)	$12,570,000
Site Work & Utility Connections	180,000
Architects-Engineers & Supervision	660,000
Land at Cost (4.79 Acres)	3,450,000
Direct Costs:	$16,860,000
Interest Under Construction (24 Mos.)	$ 1,800,000
Financial Fees and Charges	540,000
Legal-Closing & Miscellaneous Charges	100,000
Selling Costs-Advertising & Promotion	700,000
Indirect Costs:	$ 3,140,000
TOTAL COST BUILT OUT:	$20,000,000
Add: Developers Profit & Contingency Reserves	4,000,000
TOTAL SELL OUT:	$24,000,000

EQUITIES CURRENTLY IN THE JOB:

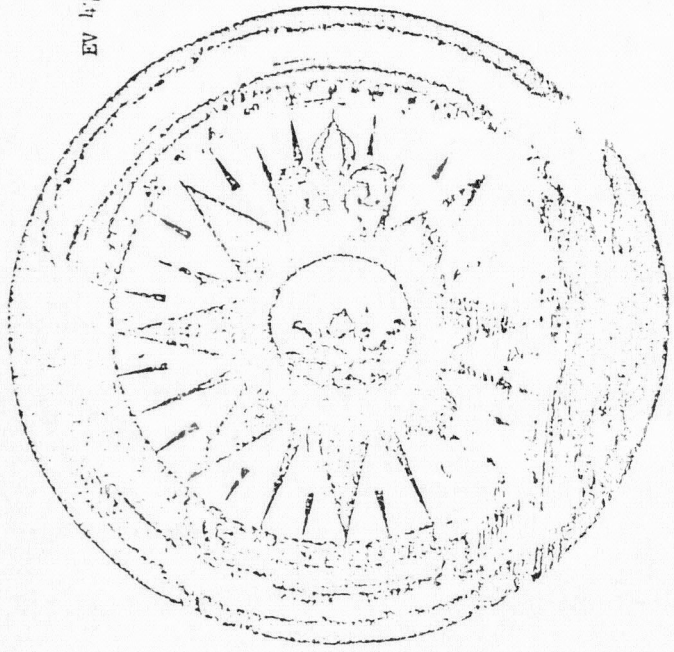
Land (Acquisition & charges to date)	$1,450,000*
Architect & Engineering	350,000
Advertising & Promotion	30,000
Legal & Miscellaneous Costs	50,000
Loan Fees & Deposits	50,000
	$1,930,000

SUBORDINATIONS TO COMPLETION:

Developers Profit Reserve	$4,000,000	
Total Equities & Subordinations:	5,930,000	
Balance Required to Complete Job:		$18,070,000
Construction Loan Requested:		$18,000,000

*Current land financing totals $2.0 million, of which $1.0 million is with the Banco de Ponce. The balance of $1.0 million represents a Purchase Money Mortgage given by the Seller.

EV 470



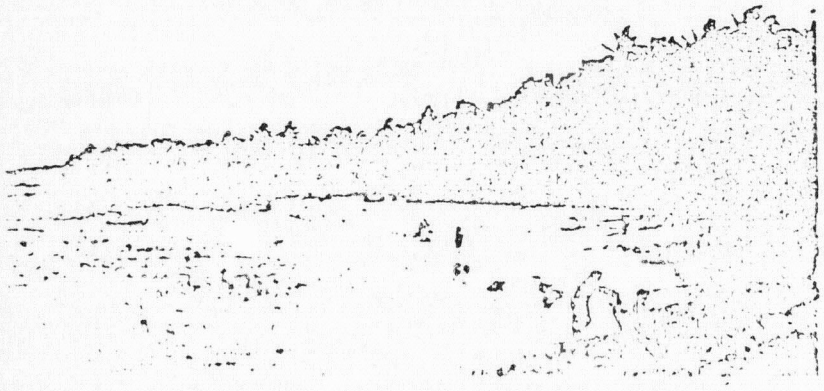
Destination Puerto Rico

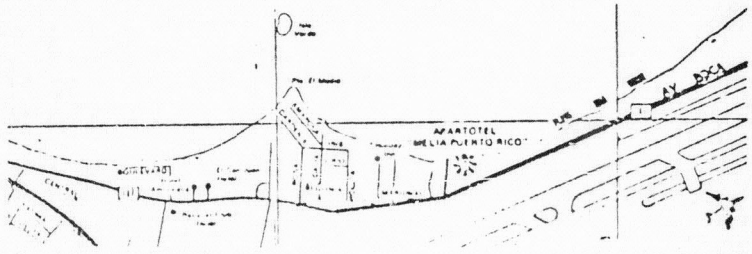
APARTOTEL, this new system which has had such success in Europe, now comes to Puerto Rico.

Located on a lovely tract with more than 150 meters of beach in the heart of the tourist area of Isla Verde near de San Juan, Americana and Holiday Inn hotels and only 5 minutes from the international airport, a magnificent modern structure is being built. It will be called APARTOTEL MELIA PUERTO RICO.

This APARTOTEL has 611 units furnished in the Castilian style and each with kitchenette, and will have the following services: shopping arcade with 10 stores, travel agencies, saunas, barber shops, beauty parlors, parking, cafeteria, restaurant, cocktail lounges, night-club, snack bar, etc.

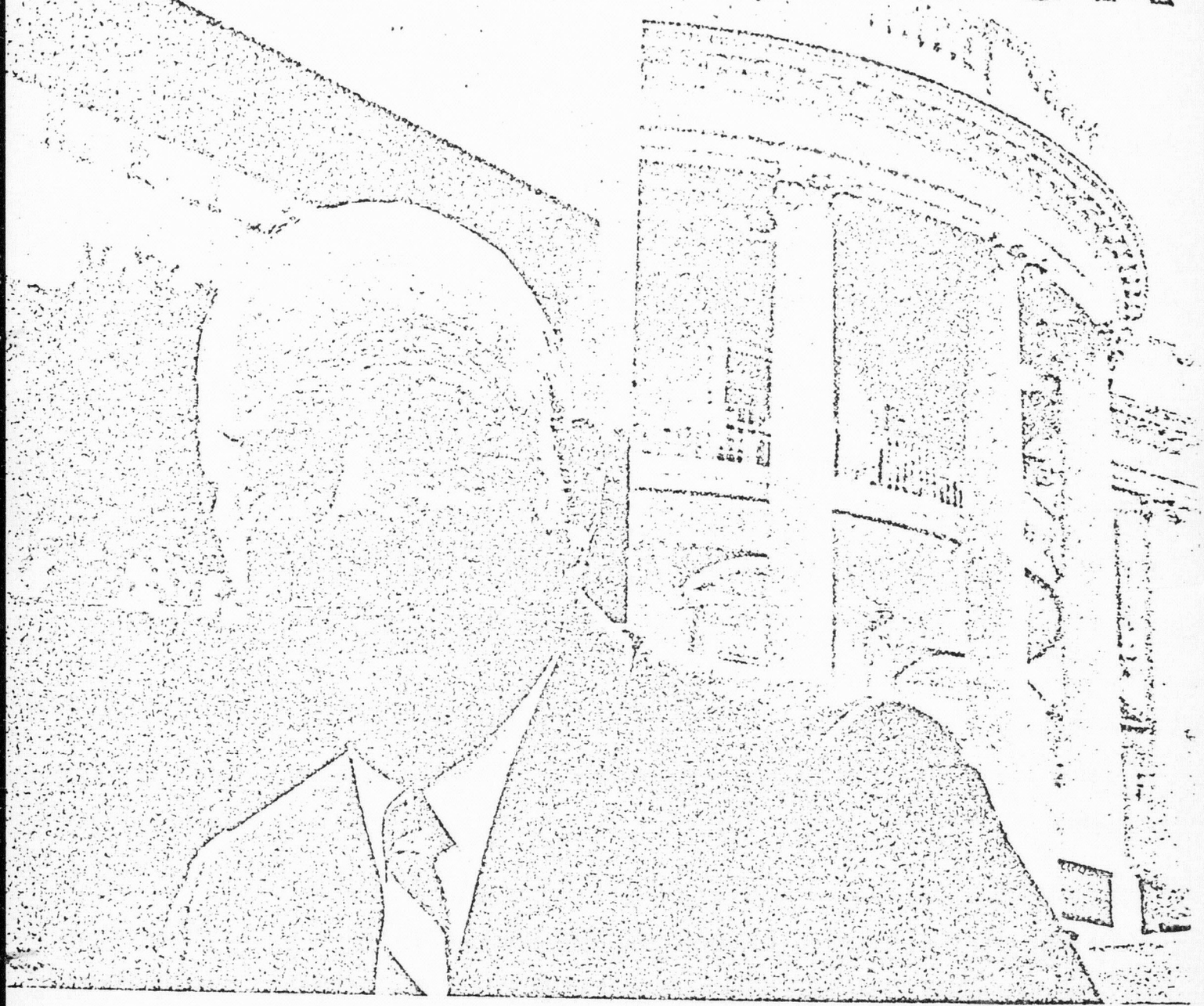
APARTOTEL MELIA PUERTO RICO also has the largest and most completely equipped Convention Hall in the Caribbean, with a capacity for 2,000 persons, simultaneous translating equipment, projection room, closed TV circuit, printing room, etc. Besides this magnificent hall, there are four others with a capacity for 400 each and flexibility to divide them in turn, depending on the needs of the moment, parking for 600 vehicles, spacious shopping areas and a lovely swimming pool next to the beach.





THE CONCEPT OF "APARTOTEL".

EV 472



Condominiums: Now you can buy part of a hotel

The newest wrinkles in condominiums are called "apartotels." You can now buy part of a commercial hotel, for pleasure or for profit. As owner of one, two, or more hotel units, plus a share of the common and public facilities, you can live in the hotel, lease your rooms, or allow the hotel management to let your rooms for you. You share in the over-all hotel revenues and costs of operation in proportion to your ownership and according to how much you use the rooms yourself.

Melia, Inc., the Spanish travel agency and hotel operator, is currently selling apartotel units in the Melia Castilla, a 1,000-unit businessman's hotel in Madrid, and in the Melia Magaluf, in Mallorca. Rooms in the Melia Castilla range from $21,000 to $53,000, with 80% financing (at 7% interest) available.

Apartotels under construction, or soon to be, are in Torremolinos and Alicante, in Spain, as well as in Paris, Mexico City, and Puerto Rico. Melia (30 E. 42d St., New York, N. Y. 10017) has the details.

The Apartotel is an apartment building but at the same time is a luxury hotel. It is a building with an apartment complex, each apartment properly fitted for apartment living; but under the apartment concept certain services are added to the complex of apartments like reception rooms, offices, conference rooms, restaurants, bars, swimming pools, laundry facilities, domestic personnel, etc. These services are available for all the owners and occupants of the apartments. These facilities are the common property of the apartotel owners or occupants. When an apartment at the apartotel is not occupied by its owner, then it is dedicated to the hotel aspect of the building. Apartotel, S.A., (Of the Hotel Meliá Chain) takes care of the administration of the apartotel building and of the individual apartotel apartments when they are dedicated to the hotel operation; if the owner thereof desires that the same be dedicated to hotel exploitation.

Therefore, the owner of an apartment in an apartotel building can either occupy the same as an independent apartment and enjoy also the above mentioned services, including the domestic personnel of the apartotel, etc. But if the owner so desires, he can also live in this apartment as part of the hotel operation wherein he will receive all the hotel services.

However, when an apartment is not occupied by the owner for any reason whatsoever either because he is away on vacation or occupies the apartment only for a period of time; then it can be dedicated to the hotel operation.

From the very moment that the owner vacates his apartotel apartment until the very day of its occupancy by the owner, Apartotel, S.A., managing entity of the apartotels, will take care of the conservation, management, etc., of the apartotel apartment, without impairing thereby in any manner whatsoever the Title to and Ownership of the aparttotel apartment.

Each apartotel building is governed by an Association of owners and by the regulations, copy of which is joint to and made part of the (each) Deed of Sale of each apartotel apartment.

The necessary expenses for conservation and repairs of the building is shared by all the co-owners of the different units distributed in proportion between the different type of individual apartments. These expenses are reflected in a loss and profit account. The Profits to each apartotel owner results as a consequence of the operation of the apartment for hotel purposes. In order to compensate for the resulting fluctuation in the exploitation of the apartments as part of the hotel, the computation of benefits and losses is usually made by monthly periods although liquidation thereof is always made annually.

Operation of the group of apartotels dedicated to hotel purposes is operated in such a manner that provided there is a percentage of occupancy enough to produce benefits and the owners thereof shall participate in such benefits in a certain proportion. In this manner competition between apartotel owners is avoided.

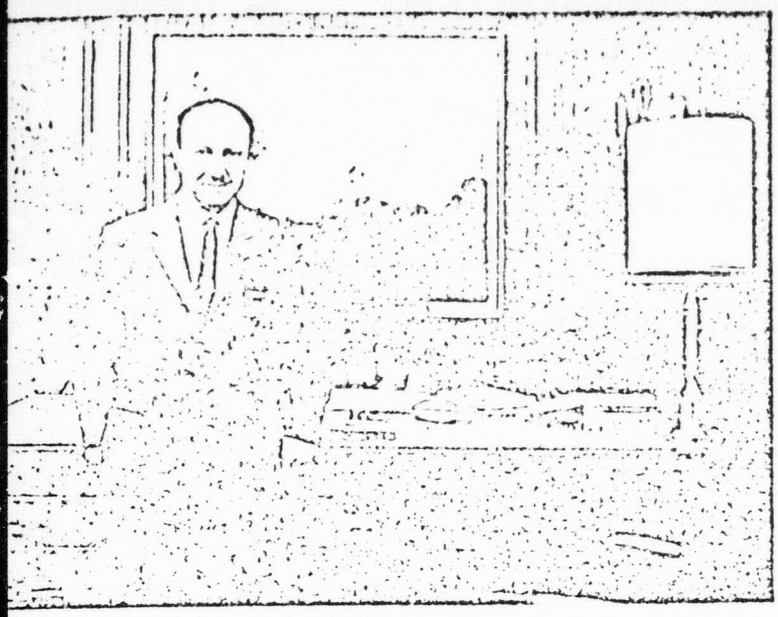
There is an annual meeting of apartotel co-owners. In this meeting financial ment of operations is given. The operation of the whole apartotel is taken into consideration, that is, including the expenses therefore incurred into, for

apartments which have not been dedicated to hotel operations. If there are benefits, it is brought before the meeting the proposed distribution thereof.

At present Meliá has two apartotel buildings of the type heretofore described. They are: Torremar and Magaluf in Torremolinos and Palma de Mallorca. Soon the apartotel Melia Castilla, being built in Madrid, will be added to the same. The last building will be the largest hotel in Spain and one of the three largest in Europe and it will consist of 1,000 rooms. The Torremar and Magaluf buildings are ideal for periodic vacations. The apartotel in Madrid will give the owner freedom from the ordinary worries of regular apartment occupancy since they can avail themselves of the hotel services and also avoid the problem of having to look for proper hotel accommodations. It is well known that obtaining proper hotel accommodations in the big cities presents a real problem.

Already the Melia Hotel chain is engaged in conversations to establish apartotels in other places and we believe that soon we will have apartotels in Canary Islands, Acapulco, Mexico, and also in large cities such as Mexico City and Paris. Thus, we have explained in general terms the meaning of the apartotel concept.

EV 476



D. José Melia, founder of the Melia Organization

Luis Bonel, head of the Melia real estate division in New York

Member Profile: The newest Melia division is based on a unique new concept . . .

The Melia APARTOTEL©

REPRINT FROM THE SPAIN-U. S. CHAMBER OF COMMERCE
November-December, 1970

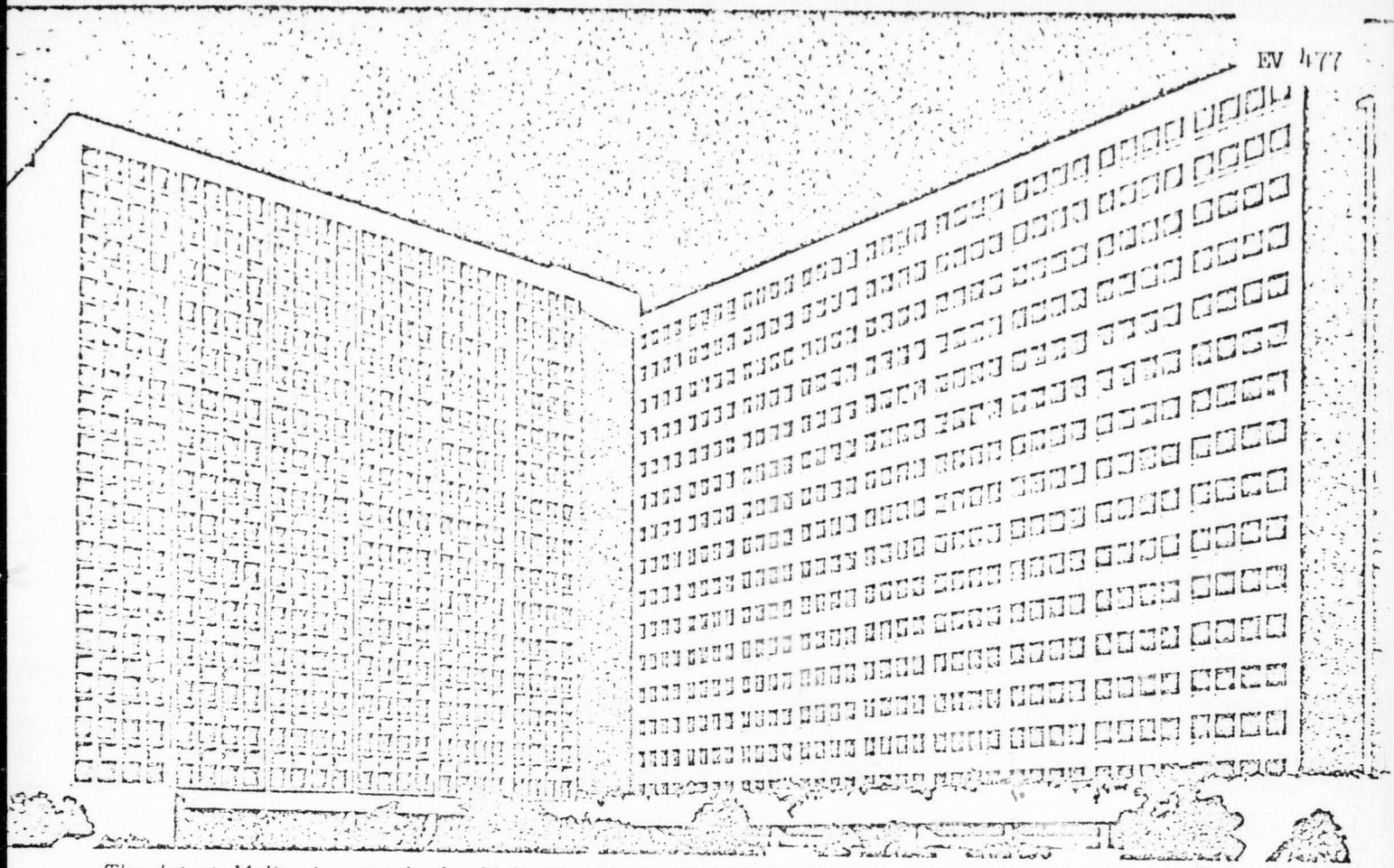
IN MIDSUMMER of this year, Mr. Luis Bonel opened an office of the real estate division of MELIA at 30 East 42nd Street in New York City, introducing an exciting new concept in tenant-owner real estate and hotel operation—apartment ownership within a hotel—the "APARTOTEL". The function of the new office is to sell to New Yorkers apartments in what will be a number of APARTOTELS throughout the world.

Although this is a new idea in the United States, the name of the company which has introduced this system is not—MELIA, the parent company, which is the fourth largest travel agency in the world as well as the largest hotel operator in Spain, has been a household name to discriminating travelers in the U.S. for the past 14 years.

This unique APARTOTEL concept means that a buyer can, with a relatively small investment, become the owner of a fully and tastefully furnished apartment, as well as a shareholder of a luxury hotel, in one of a selected number of locations in various parts of the world. The suites are all equipped with a kitchenette and range in size from attractive studios up to large multiple bedroom apartments.

December 1970 sees the opening in Madrid of the third APARTOTEL, the totally air-conditioned MELIA CASTILLA. In addition to being the newest link in the chain, it will, in fact, be Western Europe's largest deluxe hotel, with the only specially built facilities for conventions, congresses, business or association meetings. It will, for example, have Europe's largest hall for conventions or banquets, seating 1,700 persons simultaneously and affording instant translation from the speaker's platform in eight languages, if required. In addition to this room (which has the incredible area without a single interrupting column of 13,845 sq. ft.) there are several smaller meeting and convention rooms totalling 8,810 sq. ft., and special board rooms seating from 15 to 400 people. Clients can also avail themselves of private office facilities and secretarial services.

These business guests, along with the less harried tourist visitors, can also make purchases in any of the thirty shops, dine in one of two restaurants or a smart grill room, and enjoy a choice of bars and cocktail lounges or a night club. For daytime entertainment (or pure recuperation from these gala nighttime facilities) there is a swimming pool, a sauna, and a turkish bath. For



The latest Melia Apartotel, the Melia Castilla in Madrid, is the largest deluxe hotel in Western Europe

those who want to do or see any of the exciting things in or around Madrid, there are drive-yourself car rental and chauffeur services, as well as a 70,500 sq. ft. garage.

The first APARTOTEL, the MELIA MAGALUF was opened at Mallorca about five years ago, and this successful operation was followed by a second APARTOTEL, the MELIA TORREMAR in Almeria. There are currently three APARTOTELS under construction in Spain, at Alicante, Mallorca and Torremolinos; three in Mexico, at Mexico D.F., Acapulco, and Guadalajara; one at San Juan, Puerto Rico; and one at Georgetown, in Barbados. On the drawing boards are plans for future APARTOTELS in Rome, London, Paris, and Brussels making a wide choice for prospective investors.

Each APARTOTEL consists of a building containing private and independent efficiency apartments or suites. At the same time, it is a luxury hotel, since the APARTOTEL has all the typical services of a luxury hotel to serve all the occupants of the apartments. These services are available to everyone in the building. When the apartment is not occupied by its owner, he may choose to rent it through the management of the hotel, which is APARTOTEL, S.A., part of the Melia Hotel Chain. An APARTOTEL owner receives free special membership in "Melia Club" which entitles him to 20% discount in any Melia Apartotels, Hotels and Motels in the world, plus discounts on car rentals, tour buses, shops and restaurants, associated with the "Melia Club", ranging from 5% to 20%.

MELIA HOTELS so far, has sixteen beautiful hotels throughout Spain and eight under construction in Venezuela, Baja California (Mexico) and Morocco, as well as hotels under study in Tunisia and Irak.

MELIA TOURS, one of the largest travel agencies in the world, has 47 branches in Spain, 16 throughout Europe, and 9 in the U.S. and Latin America, plus a comprehensive number of agents and representatives all over the world.

D. Jose Melia was recently awarded the 1970 Mercurio D'Oro, the European "Oscar" for Industry and Trade. This presentation to the Melia Organization marks the first time that a tourist concern has won Italy's distinguished award, which was established in 1960. "To recognize outstanding achievements in productivity and European economic cooperation".

THE MELIA ORGANIZATION

Today, Mr. Melia's sons, José Meliá, Jr., and Francisco Meliá work with him in the management of the Organization. Mr. José Meliá, Jr., is the Director of the International Travel Agencies and Mr. Francisco Meliá is the Director of the Hotel Chain and Real Estate enterprises of the Organization. Together with them collaborate the executives, technicians, attorneys and others which contribute their efforts for the benefit of the Organization.

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MELIA

HOTEL CHAIN

The activities of Viajes Melia gave rise to the need for the creation of a Hotel chain.

In the year 1954 the first of the hotels was built in Palma de Mallorca under the name of Bahía Palace Hotel. As a matter of fact, the Hotel Bahía Palace was the first luxury hotel installation in Mallorca and the largest hotel there. From this beginning Melia has grown into the most important Spanish hotel chain, not only because of the number of hotels and the room count, but also because of their high quality.

The Melia hotels are strategically located with reference to the tourist trade. New additions have been made to the hotel chain. In December 1967 the Hotel Melia Madrid was inaugurated with the assistance of the Government authorities and particularly the Ministry of Tourism. The Hotel Melia Madrid is the culmination of the Melia hotel chain.

The hotel chain counts now 2,034 rooms. Further Melia is building in the capital of Spain the Apartotel Madrid Melia Castilla consisting of 1,000 rooms which will increase the number of hotel rooms to 3,034. With a hotel capacity of 2,214,820 rooms - occupants the Melia Hotel chain considers that even well known international hotel chains do not exceed the above mentioned figure.

All of this is directed from the main office of the Hotel chain which is located in Madrid at 72 General Mola Avenue.

The following tabke shows the number of hotels, rating, location and room count.

	city	rating	Address	rooms
HOTEL MELIA MALLORCA	Palma de Mallorca	deluxe	Monseñor Palmer	313
HOTEL MELIA GRANADA	Granada	"	Ganivet 1	222
HOTEL MELIA CORDOBA	Córdoba	"	Jardines de la Victoria	106
HOTEL MELIA DON PEPE	Marbella(Costa del Sol)	"		226
HOTEL MELIA TORREMOLINOS	Torremolinos(" " ")	"		183
Hotel S'ARGAMASSA	Ibiza	1aB		217
MOTEL MELIA CABALLO BLANCO	Po.de Sta.María	1aA		56
MOTEL MELIA EL HIDALGO	Valdepeñas	1aA		54
APARTOTEL MELIA MAGALUF	Palma de Mallorca			130 units
APARTOTEL MELIA TORREMAR	Torremolinos			171 "
HOTEL AGUADULCE	Almería	1aA		80
HOTEL MELIA MADRID	Madrid	deluxe	Princesa 27	250

---ooOoo---

APARTOTEL - Algarve .....Portugal
APARTOTEL - Paris ..... Paris
APARTOTEL - Mejico ..... Méjico

---ooOoo--

EV 1482

The Meliá Organization consists of three branches dedicated to specific activities and which are:

The Travel Agencies

The Hotel Chain

The Real Estate Society.

In the year 1947, and in Valencia, The Meliá Travel Agency commenced its operations and from then on starts the present development of the Meliá Organization. On the same date, Mr. José Meliá created what later would become one of the Spanish enterprises that would contribute to the development of the tourist industry in Spain.

Mr. José Meliá through his efforts, in the short span of time between the years 1947 and 1966 developed "Viajes Meliá" into one of the main European travel agencies. At present "Viajes Meliá" is one of the most prominent in Europe and the most important one in Spain. This last fact has been acknowledged by the Spanish Government which granted to "Viajes Meliá" the first gold plaque for efforts related to the tourist industry in Spain.

The success of the Meliá Organization is due principally to the tenacity of Mr. José Meliá Sinisterra who, from the very beginning has managed and adviced each and every one of the enterprises comprising the Organization.

Mr. Meliá acknowledges that his numerous friend greatly contributed to his success and that of the Organization.

MELIA TRAVEL AGENCIES

Spain today is a prominent nation in the tourist trade. The Melia Organization, mainly through its Travel Agencies, has greatly contributed to this and has caused that the tourist trade from Europe and America be directed to Spain. The Melia Organization and particularly The Melia Travel Agencies which are the basis of the organization, is today universally known as it has served persons all over the world. The opinion of the people that Melia has served and Melia's retention of said people as continuous clients is the best evidence with reference to the effectiveness of the Melia Organization.

The enterprise known as "Viajes Melia" (Melia Travel Agencies) owns eighty-five "autopullmans" which cover the principal tourist circuits in Spain and Europe. It further owns over five hundred rental automobiles.

Viajes Melia has agencies in all the main cities of the world and correspondents all over the world. The Melia's offices outside of Spain are:

FRANKFURT	Melia	Grosse Backneinheimer Strasse, 54
PUERTO RICO	Melia Wholesaler	P.B.9153 Santurce
LISBOA	Viajes Melia	Pl. Rossio, 45-50
PARIS 1er.	Voyages Melia	31, Av. de L'Opéra
PARIS 1er.	Voyages Melia	15, Rue d'Argenteuil

PARIS 6eme.	Voyages Melia	143, Rue de Rennes
PARIS 16eme.	Voyages Melia	122, Av. Victor Hugo
ROMA	Melia	Via del Corso, 241/242
MEJICO-4	Viajes Melia	Madrid 21 (Esq. Paris)
NEW YORK-36	Melia Tours Inc.	580, 5th Avenue
CHICAGO-4	Melia Tours Inc.	224, South Michigan
LOS ANGELES-48	Melia Tours Inc.	6363, Wilshire Bld.
BUENOS AIRES	Melia Wholesaler	Corrientes, 465
SAO PAULO	Rua D. José de Barros, 152	
LONDRES	Melia Travelling	12, Dover Street
SAN JOSE DE COSTA RICA	Melia Wholesaler	Avenida 2 (Contiguo al Gallito comercial)

In Spain, Viajes Melia, has its own offices in the main cities of Spain and they are centrally located in each one of the said cities. The main or principal offices of Viajes Melia are located in Madrid, Spain (Paseo del Rey 12) ; the central garage is also located in Madrid. In the building where the latter is located, dwelling facilities were built for a large part of the 800 employees that Melia has in Spain.

EV 487

The offices of Viajes Melia in Spain are as follows:

City	Address	Tel.
Algeciras	Alcázar de Toledo 4	671941
Alicante	Explanada de España 5	213034
Barcelona-7	Paseo de Gracia, 6	2312407
Barcelona-11	Avda. Generalísimo Franco 588	2282337
Blanes	Avda. José Antonio 42	330543
Benidorm	Av. Martínez Alejo 3	360152
Bilbao-1	Gran Vía 6	216146
Calella	Bruguera 105	392
Ceuta	Avda. 18 de Julio 12	3408
Córdoba	Gondomar 6	224269
	Hotel Córdoba Palace	226380
Coruña (la)	Cantón Grande 2	224432
Cuenca	Pl. Generalísimo 5	2221
Gijón	C. Corrida 46	42765
Granada	Reyes Católicos 30	23098
	A. Ganivet 2 (Hotel Nevada)	27400
Las Palmas	Bravo Murillo 11	218843
León	Gral. Franco, 8	211563
Lloret de Mar	Av. del Caudillo 5	334069
Madrid-13	Pl. Del Callao 3	2311000
Madrid-1	Goya 23	2764537
Madrid-13	Hotel Plaza (Edificio España)	2479314
Madrid-7	Hotel Carlton(paseo de las Delicias 28)	2398100

Zaragoza	Coso 49	227018
Madrid- 6	María de Molina, 1	2610677
Madrid-8	Paseo de la Florida 31	2475055
Málaga	Generalísimo 1 y 3	211071
Marbella	Avd. Ricardo Soriano s/n	823587
Oviedo	Uría 1 - Apartado 417	215068
Palma de Mallorca	Paseo Generalísimo 74	14006
	Hotel Bahía Palace	32018
Puerto de la Cruz	Jardín del Hotel Valle Mar	
San Feliú de Guixols	Rambla Vidal 4	320635
S. Sebastián	Echaide 6	17946
Sta. Cruz de Tenerife	Pilar 9	244150
Santander	Paseo Pereda 23	222671
Sevilla	Avda. José Antonio 29	213450
	Queipo de Llano 38	226614
Sitges	C. Mayor, 45	1090
Tarragona	Rambla Generalísimo 3	204290
Tarrasa	Calvo Sotelo 124-A	1879
Torremolinos	Carr. de Cádiz (Es. Girón)	881516
Tossa de Mar	Flechas Azules 16	340228
Valencia-3	(Sede Social) Paz 41	223390
Valladolid	Atrio de Santiago 2	225151
Vigo	Policarpo Sanz 17	213604

EV 489

MELIA

REAL ESTATE ORGANIZATION

Since the construction of the hotels and apartments in Spain's tourist zones, and also outside of Spain, Meliá began to work in the Real Estate field with the organization of several enterprises which were to be engaged in this type of business and grouped under the name of "Sociedad Inmobiliaria Meliá". This is the most recent activity of the organization but in spite of the short time that the organization has been engaged in this activity it has become one of the most important in Spain. Meliá has been engaged in this business for only a period of three years to date.

Meliá has over 500,000 square meters of construction in first class buildings. Among the latter is the hotel MELIA-MADRID which under the operation called "Operación Princesa" is the third tallest building in Madrid and consists of a luxury hotel, apartments, commercial areas, office areas and public parking areas. For its quality and installations, this building is considered one of the best in Spain.

In Palma Nova (Mallorca) a residential complex has been built and the building is known as Son Matías, which consists of 90 luxury apartments.

The Meliá Apartotels are built by the several real estate organizations grouped under the name of "Sociedades Inmobiliarias Meliá". The apartotel idea represents a new and revolutionary concept in the accommodation of tourists and it has been successful not only in Spain but also in Europe, mainly because it couples the comfort of the large and luxury hotels, with the privacy of the apartment. The apartotel conception has surely changed the whole concept of the tourist accommodation.

Among the buildings built and managed by Melia are the following: EV 491

EDIFICIO SOL		Palma de Mallorca
EDIFICIO LA CALETA		Palma de Mallorca
EDIFICIO SON MATIAS	160 apartments	Palma de Mallorca
APARTOTEL MAGALUF	240 units	Palma de Mallorca
APARTOTEL TORREMAR	171 units	Torremolinos
HOTEL MELIA MADRID	250 rooms	Madrid
EDIFICIO PRINCESA	apartments	Madrid
EDIFICIO FRANCISCO SILVELA	99 aptmts.	Madrid
COMUNIDAD GEN.MOLA	90 "	Madrid
COMUNIDAD ARAUCA	44 "	Madrid
COMUNIDAD TAMANACO	30 "	Madrid
COM.STA.MARIA DE LA CABEZA	14 "	Madrid
COMUNIDAD ONESIMO RED.	14 "	Madrid
COMUNIDAD LOS GRANADOS	204 units	Sevilla
CONJ. RESID. ARCO IRIS	228 "	Cadiz
COMUNIDAD S.LORENZO	38 apts.	Malaga
COMUNIDAD V.BELLA VISTA	60 apts.	Malaga
APARTOTEL MELIA CASTILLA	1000 rooms	Madrid

EV 492

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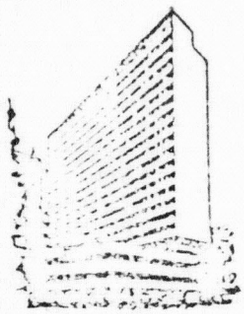
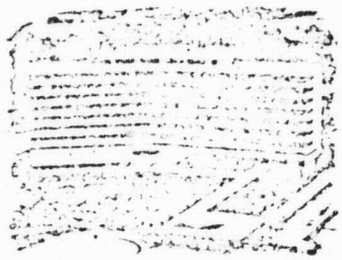


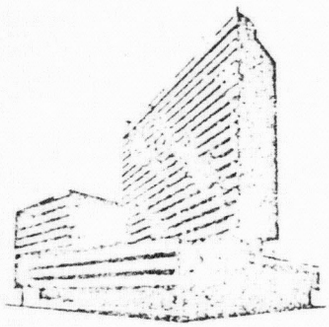
MELIA MADRID
Madrid



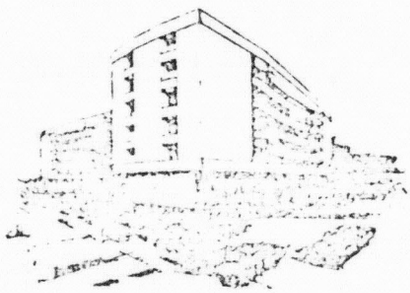
MELIA DON PEPE
Marbella (Costa del Sol)

MELIA MALLORCA
(BAHIA PALACE)
Palma de Mallorca

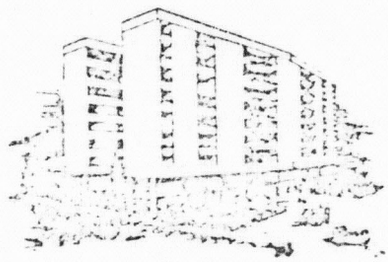
MELIA TORREMOLINOS
(3 CARABELAS)
Torremolinos (Costa del Sa



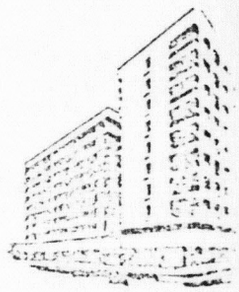
PRINCESA BUILDING
Madrid



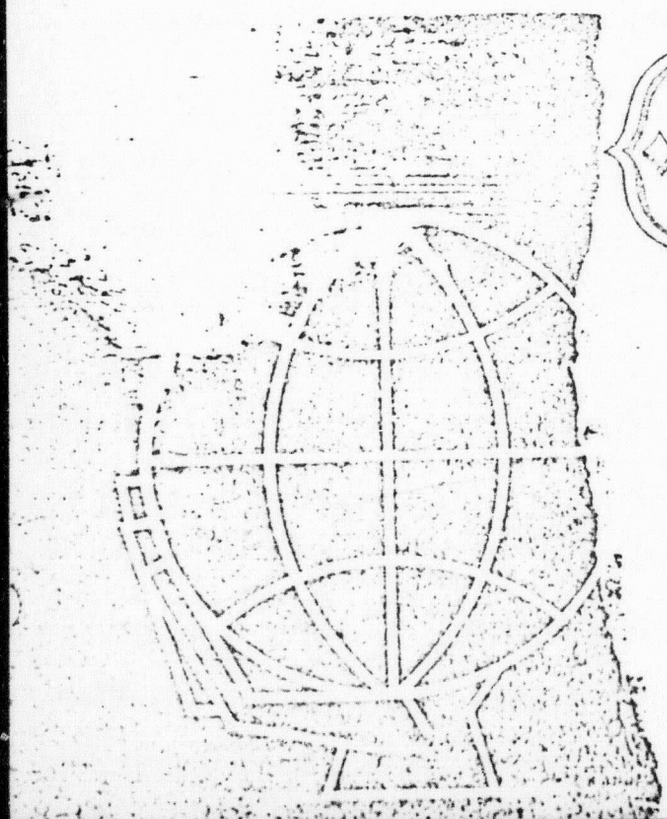
ARAUCA BUILDING
Madrid



TAMANACO BUILDING
Madrid



GRAL. MOLA BU
Madrid

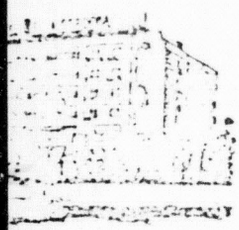


65 travel agencies around the w

125 tour buses
more than 500 ca

Melia

EV 493



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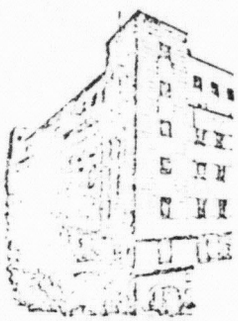
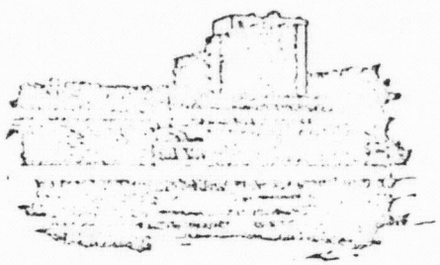
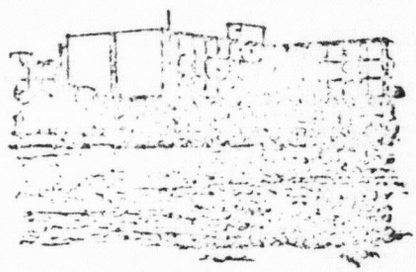
CORDOBA PALACE)
Córdoba



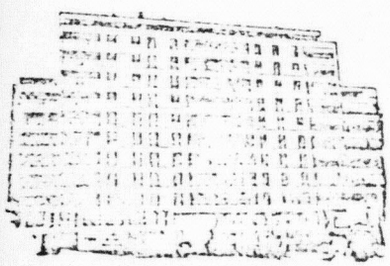
MELIA GRANADA
(NEVADA PALACE)
Granada



AGUADULCE
Almería

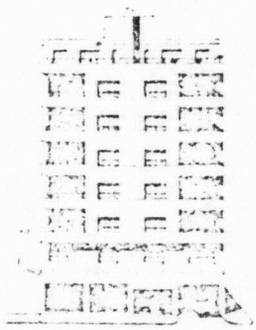


S'ARGAMASSA
Ibiza

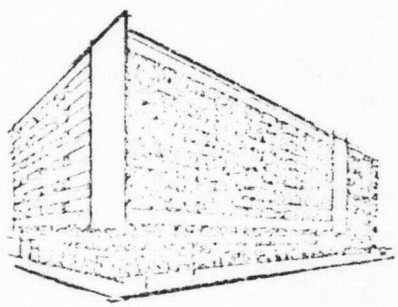


FCO. SILVELA BUILDING
Madrid

ONESIMO REDONDO BUILDING
Madrid



STA. Mª DE LA CABEZA BUILDING
Madrid



S. LORENZO BUILDING
Malaga

14.000.000 Tour

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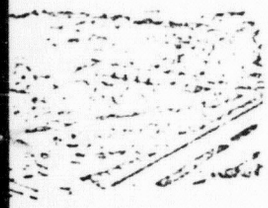
EV 494

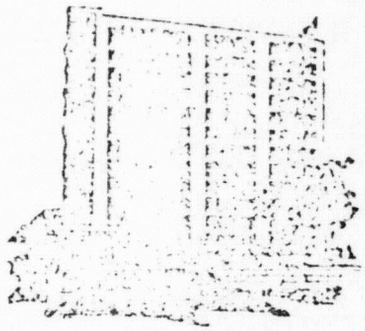
ORGANIZATION



A EL CABALLO BLANCO
o de Santa María (Cádiz)

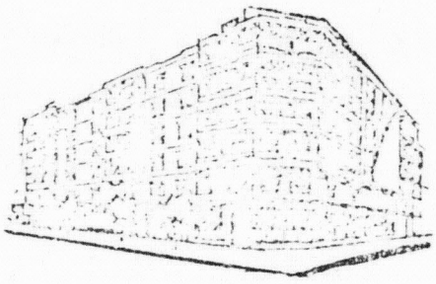
MELIA EL HIDALGO
Valdepeñas (Ciudad Real)

MELIA TORREMAR
Torremolinos (Costa del Sol)

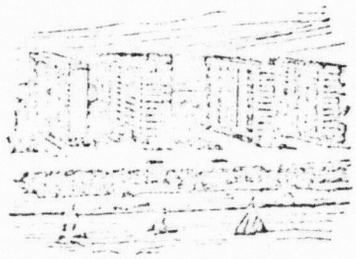


MELIA MAGALUF
Mallorca

RANADOS BUILDING
Seville



PIEDRAS VIVAS BUILDING
Madrid



"ARCO IRIS" PROJECT
Cadiz

VILLA BELLA VISTA BUILD
Malaga

s transported by land, sea and air.

, actual property of the *Melia* Hotel Chain.

r of beds (12 hotels).

meters built by *Melia* Real Estate Investments
years of Activities (50 buildings).

BEST COPY AVAILABLE

At the helm of the APARTOTEL system a powerful organization

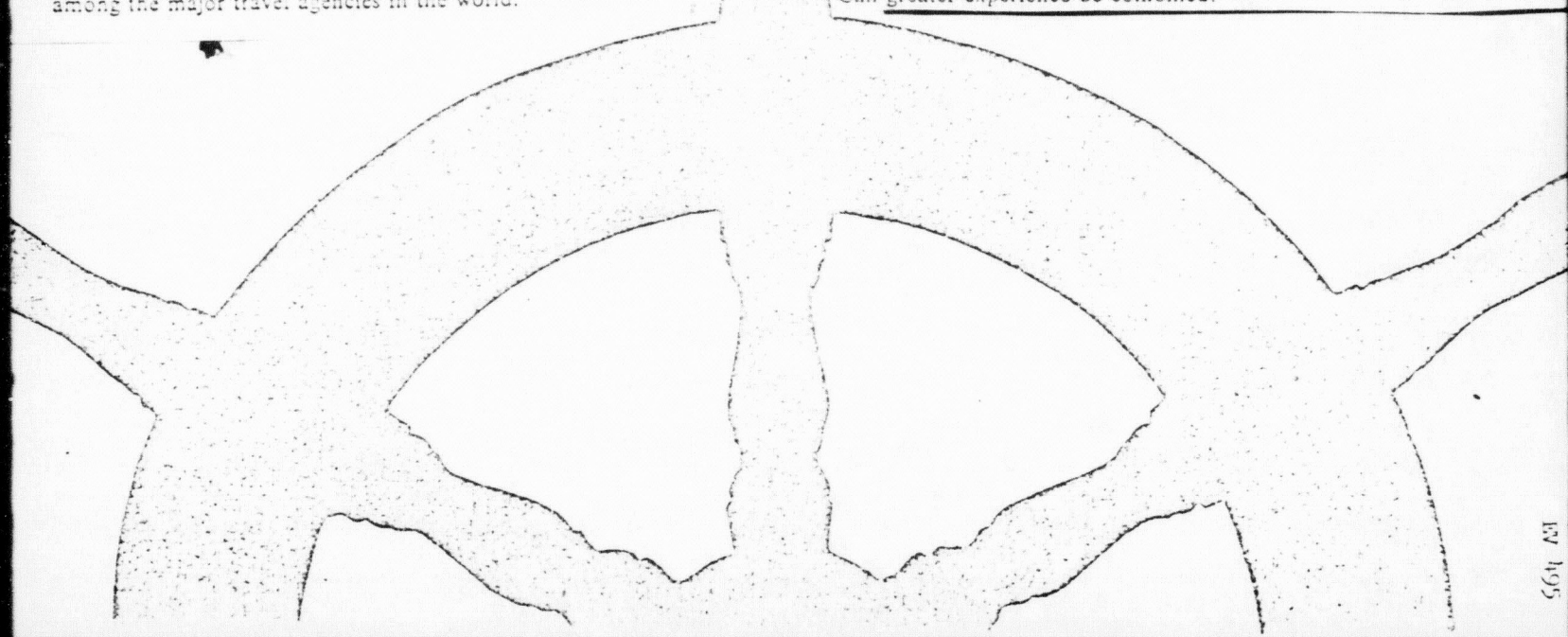
Who is going to fill your hotel with people and make it profitable?

The Melia Organization.

Melia is universally known for its travel agencies with more than 65 offices of its own in the major countries of the world. Over two million persons travel annually with Melia and this is of great significance when speaking of the hotel business. That is why it is among the major travel agencies in the world.

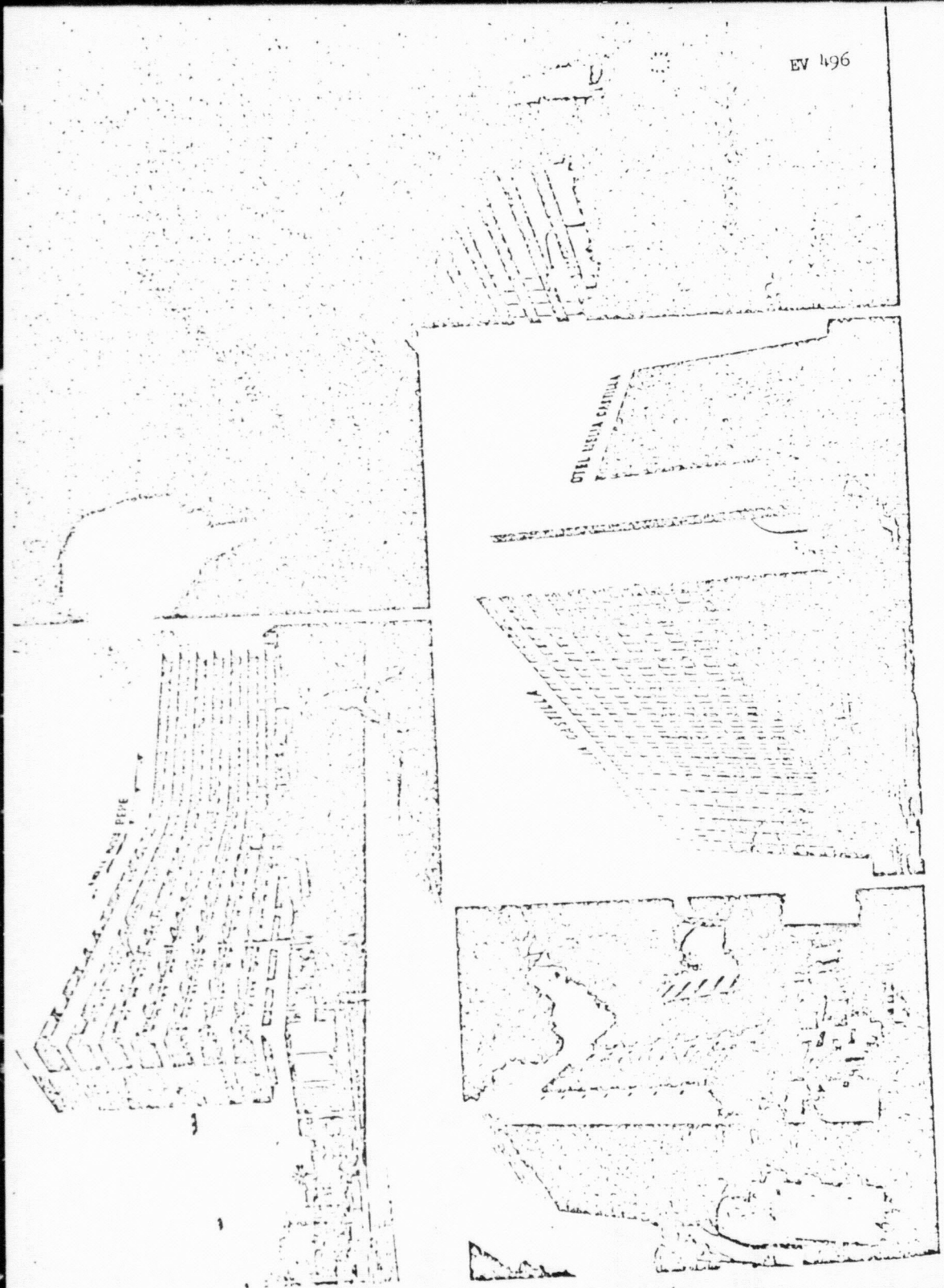
We not only move people. We keep the public in our hotels where comfort and service are our motto. Melia, with wide experience in the hotel business, has a large and prestigious network of more than 20 luxury hotels with 5,000 rooms. These are located at major European tourist centers.

This is the Organization which will look out for your interests when you purchase into APARTOTEL MELIA PUERTO RICO.
Can greater experience be combined?



EN 195

EV 496



EV 497

NEIGHBORHOOD DATA

The Melia Condominium project will be located on the northeast coast of Puerto Rico, in the municipality of Carolina, just east of the Isla Verde area, and west of the Boca de Cangrejos section. The site is commonly known as the Smallwood Plot, in deference to the Smallwood family, Ford dealers in the 1930's and 1940's who owned the property and had a clubhouse for their employees in the tract.

The area wherein the appraised property is located, commonly referred to as the Isla Verde section, is an unexcelled summer resort area which enjoyed immense popularity from 1920 to approximately 1950, at which time extensive construction, placing the land to its highest and best use, caused the entire area to become an all year residential as well as a resort hotel area. The change in the general area of the Isla Verde section was further accelerated by the construction of the San Juan Intercontinental Airport, barely half a mile east of the appraised property.

The Isla Verde section is a high class residential neighborhood inhabited by members of the senior and junior executive classes, and definitely of the higher economic level. In the past few years, resort hotels and apartments buildings have been constructed, which have received the approval of the local population, but mostly of the continental colony and the stateside tourists. The Melia Condominium project adjoins State Road 187, also known as the Boca de Cangrejos Road, in a spot separated from the Pine Grove Condominium Complex, by a road.

The Melia project lies approximately four blocks from the Racquet Club Hotel, three blocks from the Americana and El San Juan Hotels, it is three blocks from the Cecilia's Hotel, three blocks from the Blue Dolphin Hotel and one block from the Holiday Inn. A number of guest houses and restaurants abound in the area adjacent to the appraised project. Near the appraised property is the Mario's Restaurant and other restaurants and cafeterias. Approximately a mile away is the well known Mago's Restaurant and Cocktail Lounge, and a large Grand Union Supermarket. A small commercial center, built in the Villamar Development, lies approximately one mile from the appraised project. Immediately to the East of the project lies a public beach, with a restaurant.

The Melia Condominium project is straddled by hotels and by residential developments. To the west of the appraised project lies the Reparto Consular, and the Blascochea residential developments, as well as the

Atlantic View, and Villa Internacional residential developments. Southwest of the appraised condominium project lies the Villamar Development and the Rodríguez Ema and El Palmar Developments. These developments consist mainly of single family residences, and for the most part contain relatively new houses. The inhabitants of these developments generally show pride in home ownership, and maintain their homes and gardens in an attractive condition. Almost all of the buildings are of reinforced concrete construction, with pleasant architectural treatments. Three large apartment projects, the Park Plaza Condominium, the Villas del Mar, and the Beach Towers rental building, lie west of the project site, while further west a number of smaller apartment buildings are found. Among these are the Marlin Towers, Isla Verde Towers and the Golden Beach projects. Two additional apartment projects are presently under construction. The Surfside Mansions will be a large condominium apartment project, while the Caribbean Beach Apartments will be of the rental type. Several other large condominium projects such as El Girasol, Racquet Club and Sea Queen Condominium are scheduled for development.

A catholic church is located in the Villamar Development, about a mile from the appraised property. A parochial school, the Colegio de la Piedad, which will eventually provide elementary and high school education is located behind the catholic church. A protestant church, the First Union Church, is located approximately three miles west of the appraised property. This church also contains a private school within its grounds. Another private school is located in Punta de las Marias, approximately three miles from the appraised project. Public graded and high schools are available in the Parque Barbosa area, four miles west of the appraised property. Two cemeteries are located two miles west of the project.

The Melia Condominium project lie adjacent to State Highway No. 187, this highway joins with State Highway No. 37, leading into Santurce, and being known in that area as the Loiza road. South of the appraised property lies State Highway 26, better known for its official name of Baldorioty de Castro Avenue, or simply the Airport State Road No. 26. This highway connects Santurce with the 65th Infantry Highway which from Rio Piedras leads to the eastern end of the Island. Baldorioty de Castro Avenue is a modern four lane concrete highway, which connects the heart of Santurce with the International Airport. On this highway there is an efficient bus service supplied by the Puerto Rico Transportation Authority, as well as taxi service.

Almost all the residential buildings in the vicinity of the Melia Condominium project site are relatively modern, and consist mostly of one story concrete buildings of the one family type, with attached carports.

BEST COPY AVAILABLE

The hotels, among them El San Juan, the Americana, Cecilia's Place and the Holiday Inn, are new concrete structures incorporating all the features of modern, well constructed hosteleries.

Most of the streets in the Isla Verde section are of an asphalt surface on Telford McAdam stone base. They generally have concrete curbs and gutters on the sides, and are of sturdy construction. Sidewalks are of plain concrete, electrical service is provided by overhead lines on creosoted wooden poles. Electric light and power of 112 volts and 220 volts is provided to all sections of the neighborhood. Industrial and commercial establishments are provided with power, as desired, by the use of suitable transformers. All electric services in Puerto Rico are provided by the Puerto Rico Water Resources Authority, a government agency.

Telephone service is also supplied by overhead lines, the facility being provided, in the Isla Verde section by the Puerto Rico Telephone Company, a subsidiary of stateside telephone interests. Water and sanitary services are provided by the Puerto Rico Aequeduct and Sewer Authority. Street repairs as well as maintenance of the rainfall sewer system in Highway No. 187, is a responsibility of the Public Works Department of the Commonwealth of Puerto Rico.

Police protection is provided in the Isla Verde area by the Puerto Rico Police. A system of motorized patrols covers the San Juan area, extending also to Isla Verde. A system of horse mounted police patrols the Atlantic Ocean Beach. The Puerto Rico Fire service provides fire protection. Several fire fighting engines are on duty at the airport, close to the Melia project, while other engines are located in the Santurce area, of San Juan. Garbage collection is a responsibility of the municipal government of Carolina.

An analysis of the data obtained in the study of the neighborhood of the Melia Condominium project, permits the appraiser to develop the following conclusions:

1) The neighborhood is presently experiencing an economic bonanza. Intense construction of residential and hotel projects assures the continued economic importance of the area.

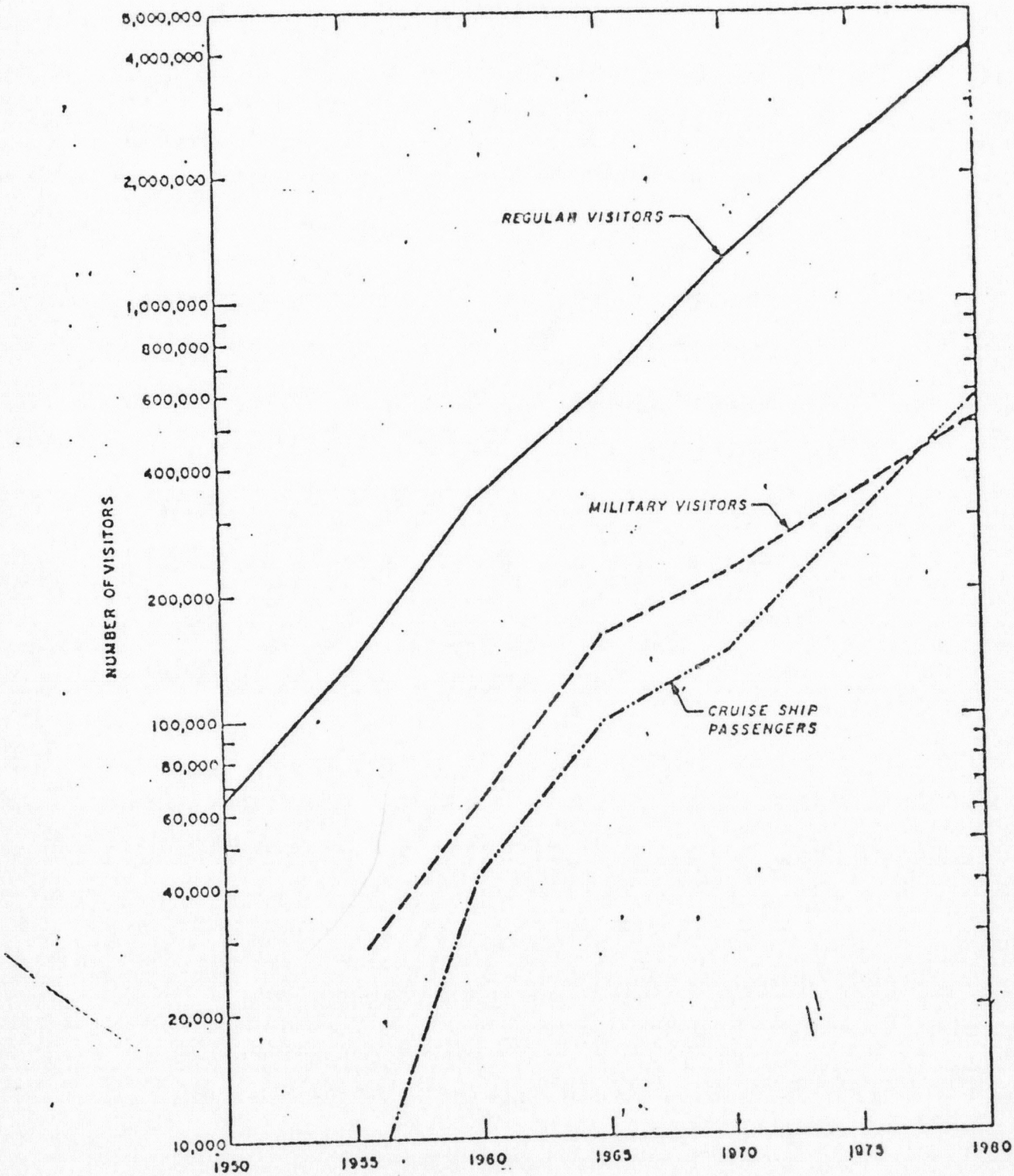
2) Continued interest in Puerto Rico as a resort area, and better means of communications with the Continental United States, will result in an increase tourist trade. The natural beauty of the Isla Verde area, its facilities and its excellent location will maintain it as a prime site for development of hotels, guest houses and restaurants, as well as residential units.

3) The continued gain in economic importance of the Isla Verde section will be reflected in continued increases of the real estate values in the area.

Figure II-2

GROWTH IN NUMBER OF VISITORS TO PUERTO RICO
1950-1980

EV 501



SOURCES: BALANCE OF PAYMENTS SECTION, PUERTO RICO PLANNING BOARD.
DEPARTMENT OF TOURISM, ECONOMIC DEVELOPMENT ADMINISTRATION.
STANFORD RESEARCH INSTITUTE.

EV 502

PROJECT DESCRIPTION

The appraiser has been requested to evaluate the Melia project as a condominium apartment one, with all commercial areas being the general common property of the condominium apartment owners. This method of condominium ownership, although not common in Puerto Rico, has nevertheless been used by condominium developers in the Island. The appraised residential units have all the characteristics of efficiency or studio apartments, with a living area capable of nightime conversion into a bedroom, a kitchenette with a valet cooking and refrigerator unit and a bathroom. Garage space will be available for purchase at an additional price

The projected Melia Condominium will include 627 efficiency (labeled 'rooms' in the architectural prints) apartments, as well as different types of commercial areas estimated by the appraiser to total 180,396 square feet. These areas inlude storage rooms, kitchens, ballrooms, dining room, bars, offices, lounges, newstands, stores, convention rooms, etc., etc.

The preliminary plans on which this appraisal was based, are a set of sixteen sheets, prepared by Capacete, Martín & Associates, architects and engineers for Inmobiliaria Melia. The project is identified as Job 7226, with no date shown except for a revision of sheets No. 3 and 7 dated February 1970. Copy of these prints are included in the Addenda section of this report,

The projected building is a reinforced concrete structure, resting on concrete piles. The improvements can be divided into three main wings, duly inter-connected. Wing A will be eleven stories high, wing B will be eight and wing C will be four. Wings A and B will contain diverse commercial areas, as well as 627 efficiency apartments, while wing C contains commercial areas only.

The basement, covering most of the lot, contains parking facilities for 398 cars, as well as storage, employees facilities, shops, mechanical equipment, maintenance rooms, cisterns and other service areas.

The first story in all three wings will house diverse commercial activities, such as cafeteria, pub, kitchen, shops, offices, bar, grill, ballrooms, and parking facilities for 104 cars. Corridors, gardens and lobbies, terraces and a swimming pool are also located in this floor.

EV 503

The second story contains some residential units in wing A and commercial units such as kitchen, storage, convention room, meeting room, bar and offices in wings B and C.

The third and fourth floors contain residential units in wings A and B, and commercial units such as the printing room, projection room, lobby, etc. The roof section of wing C contains parking facilities for 130 automobiles.

Floors 5 to 11 in wing A, and 5 to 8 in wing B will contain residential units.

A tabulation of the project facilities indicate the following uses:

Level	Wing A	Wing B	Wing C
Basement	Service Areas Under All Wings		
Ground Floor	Commercial and Service Areas		
Frist Floor	(no such floor labeled in the project)		
Second Floor	14 Apts	Commercial	Commercial
Third Floor	51 Apts	44 Apts	Commercial
Fourth Floor	51 Apts	44 Apts	Commercial
Fifth Floor	51 Apts	44 Apts	--------
Sixth Floor	51 Apts	44 Apts	--------
Seventh Floor	51 Apts	44 Apts	--------
Eighth Floor	43 Apts	44 Apts	--------
Ninth Floor	21 Apts	------	--------
Tenth Floor	21 Apts	------	--------
Eleventh Floor	9 Apts	------	--------
Total	363 Apts	264 Apts	
Grand Total ----------	627 Apts		

HOTEL REGISTRATION IN PUERTO RICO

EV 504

FISCAL YEARS JUNE 30, 1955-69

Fiscal Year	Total Registrations	Year-by-year increase		Percent of rooms Rented
		Number	Ratio	
1954-55	94,316			74.0%
1955-56	105,310	10,994	11.7%	72.8
1956-57	109,548	4,238	4.0	73.5
1957-58	125,103	15,555	14.2	73.1
1958-59	166,216	41,113	32.9	73.4
1959-60	207,368	41,152	24.8	81.6
1960-61	220,586	13,218	6.4	76.7
1961-62	257,099	36,513	16.6	73.9
1962-63	280,508	23,409	9.1	69.3
1963-64	347,754	67,246	24.0	63.7
1964-65	387,287	39,533	11.4	74.3
1965-66	443,722	56,435	14.6	77.4
1966-67	469,127	25,405	5.7	73.6
1967-68	546,176	77,049	16.4	77.5
1968-69	569,335	23,159	4.2	77.6

Source: Puerto Rico Planning Board, Economic Indices Section

The above tabulations show that for the past fifteen years each year was better than the year before in terms of tourist traffic and in hotel registrations recorded. The development has been steadily on the rise at an accelerating pace. The Puerto Rico Planning Board has not yet published the data as to number of visitors for fiscal 1968-69, but information obtained from an authentic source indicates that the trend has somewhat declined through fiscal 1968-69.

With the influx of tourists and the rising tide of passenger arrivals, the hotel industry has of course thrived over the years, the extent of which is revealed by the following table.

OCCUPANCIES OF SAN JUAN HOTELS

Fiscal Year	Total Registrations	Percentage of rooms Rented	Daily Average Number of Guests
1954-55	94,316	74.0%	1,006
1955-56	105,310	72.8	1,084
1956-57	109,548	73.5	1,163
1957-58	125,103	73.1	1,480
1958-59	166,216	73.4	1,974
1959-60	207,368	81.6	2,683
1960-61	220,586	76.7	2,763
1961-62	255,593	73.9	3,184
1962-63	280,508	69.3	3,484
1963-64	347,754	63.7	4,641
1964-65	387,455	74.3	5,786
1965-66	443,722	77.4	6,480
1966-67	469,127	73.6	6,860
1967-68	546,176	77.5	8,257
1968-69	569,335	77.6	8,318

Source: Puerto Rico Planning Board, Bureau of Economics and Statistics, Division of Statistics, Economic Indices Section.

From the above tabulation it may be seen that the occupancies in San Juan hotels climbed from 74.0 in fiscal 1954-55 to a high of 81.6% in 1959-60. They dropped off for the subsequent four years, and in fiscal 1964-65 they again began to climb, reaching a level of 77.4% in fiscal 1965-66.

According to the Laventhol Krekstein Horwath & Horwath studies, which are published annually in the house organ "The Accountant", the first-class beach hotels in San Juan have consistently attained occupancies that average several percentage points above the group included in the Government statistical compilations, as indicated by the following comparison:

	Percentage of Occupancy			
	1969	1968	1967	1966
First-class beach hotels	82.8%	85.8%	82.5%	78.5%
All hotels included in government compilation	N.A.	77.7	73.6	77.4

From the above comparison, it is evident that compared with Puerto Rico hotels in general the business has been much better in the first-class beach hotels, which not only achieve higher occupancies, but also sustain higher room rates.

It is also significant that, according to these studies, average room rates for the beach hotels have been rising each year, for the past several years. In fact, in 1969 the room sales for that group showed an increase over those of 1968 in spite of a decreased occupancy, traceable to the spring and summer quarters.

The group of San Juan tourist hotels included in the government compilations for the last nine fiscal years ending June 30, (1959-68) were as follows:

The published rates of the important first class beachfront hotels for the 1969-70 winter season is as follows:

	Single		Double	
	Minimum	Maximum	Minimum	Maximum
Americana	$40	$60	$40	$60
Caribe Hilton	35	55	40	60
Condado Beach	29	46	33	50
El San Juan	35	55	40	60
Holiday Inn	25	33	31	43
La Concha	35	55	40	60
Puerto Rico Sheraton	35	55	40	60
San Jerónimo	35	55	40	60
Projected winter rates for proposed hotel	34	39	40	45

From the above comparison it may be seen that the proposed hotel will have winter rates that are somewhat lower than those of the other significant beachfront hotels in the San Juan area.

The relative competitive position of the proposed new hotel with respect to the anticipated room rates is best understood by a comparison of its projected regular rate structure with those of other modern beachfront hotels in San Juan.

According to the Puerto Rico Ports Authority, in the fiscal year 1969-70 (through September) the airport handled 1,311,708 passengers, which was only 4 tenths of one per cent less than the number handled in 1968-69 for the same period (3 months). The three major air carriers to Puerto Rico from the mainland are Pan American, Eastern and Trans Caribbean. The major airlines predict annual increases in passenger traffic from 8% to 10% in the immediate future. Moreover, with the 460-passenger jets already put into service by one of the major carriers with probable reductions in fares, the increases could be even greater than those projected for the next two or three years.

The Puerto Rico Economic Development Administration is becoming increasingly aware of the importance of tourism to the island's economy. Tourism promotional efforts are being intensified by providing increasing budgets for the additional

penetration of existing markets and the exploitations of new ones. Moreover, the EDA in 1967 made a substantial appropriation to cover the cost of an exhaustive study of Puerto Rico tourism in all its aspects and to provide a model for the future development of the tourist industry. One of the conclusions reached by the study group was the establishment, by 1980, of 25,000 additional hotel rooms of which 12,000 should be constructed at an accelerated pace to reach completion by 1975. At the present time, known to us hotel projects, (exclusive of this proposed hotel) in the early development stages, comprise a total of 9,900 rooms in approximately sixteen (16) new projects and/or expansions. With the culmination of this project and assuming that these other projects will materialize the new planned facilities would approximate 80% of the immediately required hotel rooms and 1/4 of the desired goal for the 1980's, as indicated in the Stanford Research Institute report.

Only seven of the known planned facilities will, if culminated, contain a comparable number of guests rooms as projected for this development. The 16 known planned facilities would be distributed as to size, as follows:

Number of projects	Under 500 rooms		700 rooms or more
	Primary projects	Expansions	
7			5,750
5		1,050	
4	3,070		

The large hotels with casinos have extensive restaurant and entertaining facilities, including a diversity of dining rooms and night clubs, all operated under expensive floor shows and orchestras. This has made dining costs in San Juan hotels extremely expensive which in turn has drawn harsh criticism from various sources, similar to the complaints as to room rates.

The proposed hotel expects to maintain its food and beverage operation simple, which is one of the biggest factors adversely affecting the house profit of most first class tourist hotels. With an operation under the group

management of the Melia organization, tighter controls could be exercised over the food department, permitting a marginal operation to become profitable. The menu price structure should be at the minimum competitive level and should find a receptive market in the class of guests it hopes to attract, including special group packages.

The Commonwealth Senate Commerce and Industry Committee released a special report in 1967 on the tourist industry in which it made specific recommendations. Included in its report is a major recommendation to establish a cabinet-level agency to promote and regulate tourism. At present the Department of Tourism is an arm of the Economic Development Administration. Together with the decentralization of this activity, the committee also recommends a substantial increase in the annual promotion budget. The proposed increase would represent four or five times the current budget for tourism promotion.

The government is looking to the future of tourism as a material factor in its economic development program.

Based upon the concerted efforts being made from all directions to boost the tourist traffic to the island, and also on the optimism displayed by the airlines, the Ports Authority and other Government agencies, there is every reason to expect that the rising trend will continue into the future in the absence of any unforeseen adverse changes in general economic conditions. For the past three years the number of visitors has shown an annual average increase of about 15% over the year before. During that period, the first-class beachfront hotels have sustained occupancies of about 80%, and if the trend in traffic volume continues it will take only two or three years for an actual shortage in beachfront rooms to occur. As of June 30, 1968, there were 5,403 tourist hotels rooms in San Juan, and the average occupancy of all of them was in the upper seventies and in the upper eighties for the first-class beachfront luxury hotels in San Juan.

EV 510

June 13, 1972

TO: John de Saint Phalle

FROM: Leonard Wilkes

On Thursday, June 8th, I met with Martin Cohen and Pedro Fullana (principals) and with Clyde Framd and Neil Montilla (of the Berens Corporation -- originating mortgage banker) and with Don Gray (of First Mortgage Investors -- the construction/standby lender) at the regional offices of FMI in Coral Gables. The meeting was called for the purpose of executing the FMI formal application for commitment and the tendering of a $50,000 Good Faith Deposit to FMI. In this instance, the $50,000 Good Faith Deposit was being transferred from the Paine, Webber deposit account, which is an exception to our general operating procedure, but a necessary expedient in this particular case.

When the subject of additional personal and corporate guarantees came up there was resistance on the part of Pedro Fullana who now seeshimself as the sole personal guarantor on the hook for $19.0 million. He takes this position due to the joint and several nature of the personal guarantee plus the fact that the Melia personal guarantee is for the most part academic, since his assets are frozen in Spain.

Fullana's obligations apparently triggered a similar reaction in Martin Cohen's mind, since he sees himself pledging the Marles Properties jointly and severally, and possibly ending up holding the bag, since the Melia assets are blocked and Fullana's net worth is really an inflated paper figure.

Since the two principals present were both looking to the Melias for reassurance and/or meaningful cross guarantees, there was no way in which the transaction could be completed at the time.

.../...

Martin Cohen contacted me the next day in Puerto Rico and concurred with me that a possible solution would be a $3.0 million hard guarantee comprising irrevocable U.S. bank letters of credit. This, plus the $2.0 million of cash equity already in the job constitutes over 25% of the proposed loan amount and in my viewpoint is much more meaningful than the previous paper guarantees offered. I have advised the Berens people, the FMI regional representative, and Dwight Callantine of the FMI, Coral Gables office of this proposal, and all appear to think that it would answer the lenders needs insofar as guarantees are concerned. I am waiting for an official OK from FMI before getting everyone in motion.

Since even the issuing of a bank letter of credit would be extremely time consuming for Melia, Martin Cohen has agreed to put up Melia's share as well, and will accept certain cross guarantees and assurances from Melia. In all likelihood, this should solve the problem that has been delaying the processing of our application for the past two or three weeks and hopefully will enable us to deliver a firm commitment within the next 30-45 days. Our fee will be deemed to have been earned at that time although there is some question whether we can realistically expect to be paid before the actual closing and funding of the construction loan. In this event, we can book earned income and bill out an amount receivable for the total amount of our fee (1½% of $18.0 to $19.0 million).

Leonard Wilkes

LW/je

P.S. As a sequel to the above however, Martin Cohen invited me to visit his Basic Equities offices in San Juan for the purpose of picking up two more cases. I met with his people on Friday and came away with the Housing Investment Building in Hato Rey, now ready for a $7.5 million permanent, and the Lincoln Office Building in Hato Rey now ready for a $2.5 million permanent. These two are to be added to the M & M Building in Rio Piedras which Marty gave me last week and is ready for a $3.3 million permanent. In addition, he is having his office send me refinancing opportunities on the Alma Building and the Malco Building, both of which are ready for $3.0 million permanent financing.

As you can see, we have an opportunity here to restructure a good portion of the Basic Equities portfolio. Mr. Cohen would also like us to view the Basic Equities holdings with the possibility in mind that some other type of public or private or corporate financing might be available either now or sometime down the road.

LW

PAINE WEBBER JACKSON & CURTIS INCORPORATED

FROM

6/26/72 EV 512

LEONARD WILKES

Dear Woodie:

Everything is go re. Melia, San Juan.

Please rush the following to me:

a) The signed Free Applecart

b) The $ 5,000 refundable Good Faith Deposit to Berens + Free

c) My letter of 6/26 authorizing the release of $5,000 we wire Melia in Atlanas Bank Puerto Rico

Best wishes to Us all!! Leonard

140 BROADWAY 212-437-2114

BEST COPY AVAILABLE

EV 513

PAINE
WEBBER
JACKSON
& CURTIS
INCORPORATED

Established 1879 Members New York Stock Exchange, Inc. and other Principal Exchanges

140 Broadway, New York, N.Y. 10005 (212) 437-2121

June 26, 1972

Inmobiliaria Melia de Puerto Rico, Inc.
Pan American Building
Hato Rey, Puerto Rico

Re: Melia Apartotel
Isla Verde, Puerto Rico

Gentlemen:

In accordance with your instructions, we are proceeding with the formal application to First Mortgage Investors through the Berens Mortgage Bankers, Inc. of San Juan, on the following basis:

Loan Amount	:	$19.0 Million
Interest Rate	:	4½% over prime floating
Loan Term	:	24 months plus two six-month extensions.
Lenders Fees	:	4.0% total, including standby fees, origination fees, drawing fees, and lenders attorney fees. Any extension in term described above will be at the cost of ½% per each six-month extension.
Loan Guarantees	:	The loan will be guaranteed by a lien on the subject property, by the stock of applicant corporation, and by $1.5 million of irrevocable U.S. bank letter of credit, to run for the same term as the construction loan.

RECEIVED

JUN 28 1972

TIME 9:10 am

.../...

In the interest of expediency, we have returned to the various makers, the $50,000 Good Faith Deposit originally tendered to Paine, Webber under the terms of our Application for Commitment dated March 24, 1972. This is to be exchanged for a check in the amount of $50,000 drawn to the order of Berens Mortgage Bankers, Inc., representing the refundable Good Faith Deposit required by First Mortgage Investors with their formal Application for Commitment. Would you please indicate your authorization for us to return this escrowed amount to the respective parties in the space provided below.

This will further serve to revise your application for commitment dated March 24, 1972 and amended May 22, 1972 to the terms and conditions noted above, and extended for the time required for appropriate Trustee approval and delivery of the final commitment documents. In all other respects the terms and conditions of the authorizations dated March 24, 1972 and amended May 22, 1972 remain in full force and effect, and we draw your particular attention to Item 9(b) which recites the fact that our brokerage fee is deemed to be earned and becomes due and payable at the time of final approval of the loan commitment.

Now that we appear to have cleared the major hurdle that has held up processing of this application for almost a month, we are hopeful of going forward without any further delay.

Sincerely

Leonard Wilkes

Leonard Wilkes, Director
National Mortgage Department

LW/je

AGREED & ACCEPTED

INMOBILIARIA MELIA DE PUERTO RICO, INC.

BY: _____

DATE: _____

EV 515

Documents & K
for audit
11/21/73 KB

Inmobiliaria Melia de Puerto Rico, Inc.
Pan American Building
Hato Rey, Puerto Rico

July 5, 1972

Mr. Clyde Frame, President
Berens Mortgage Bankers
GPO Box 3529
San Juan, Puerto Rico 00936

Re: Melia Apartotel
Isla Verde, Puerto Rico

Gentlemen:

We enclose herewith our signed application for the standby and construction loan financing of the proposed Melia Apartotel to be built in Isla Verde, along with the $50,000 Good Faith Deposit for FMI.

We agree to all the terms and conditions described therein, but request a period of 120 days from the date of the approved commitment to come up with the necessary Letter of Credit or other guarantees satisfactory to the lender.

We agree that if we accept a commitment satisfactory in all other respects, but conditioned upon the aforementioned Letter of Credit or other satisfactory guarantees, that we will produce such instruments or guarantees within 120 days from the acceptance of the commitment, or forfeit our $50,000 Good Faith Deposit.

If this is agreeable, would you please resume processing our Application towards final Trustee approval.

Very truly yours

Martin Cohen, President
Inmobiliaria Melia de Puerto Rico, Inc.

RECEIVED

JUL 7 - 1972

TIME 9:10 am

cc: MARTIN COHEN FILE
: FRANCISCO MELIA

EV 516

To: FNMA Regional Vice President, Mr. Donald Gray Date: _____

Our Company, Borens Mortgage Bankers, Inc. offers the following Conventional Mortgage Loan to FIRST MORTGAGE INVESTORS (FMI):

LOAN NUMBER ASSIGNED BY FMI: _____

1. BORROWER: Name and Mailing Address of Borrower: Inmobiliaria Wolff de P.R., Inc.
American Building, Hato Rey, Puerto Rico
ORGANIZATION OF BORROWER: (Check One) ☒ Corporation ☐ General Partnership ☐ Limited Partnership ☐ Trust ☐ Joint Venture ☐ Sole Owner

2. GUARANTORS: Name and Mailing Address of all Loan Guarantors and, if applicable, their wives: A $1.5 Millio
back letter of credit, plus guarantee of Jose Mella and wife.
c/o Inmobiliaria Wolff de P.R., Inc.
American Building, Hato Rey, Puerto Rico

3. PROPERTY LOCATION: Address of Property: ISLA VERDE
City San Juan County _____ State Puerto Rico

4. REQUESTED LOAN AMOUNT: $ 20,000,000.00. The Loan to Value Ratio is 79.8 % of the Appra
Improved Value of the property which is $ 23,800,000.00

5. REQUESTED LOAN TERMS: Interest Rate Prime +2 1/2 %; Loan Term 24 Months/~~Years~~ Principal and In
Payment Terms _____ Years.

6. REQUESTED REPAYMENT TERMS: Loan Pre-payment prohibited for _____ years; Pre-payment Penalty
ensed period: _____

7. OTHER LOAN TERMS AND CONDITIONS: FMI Permanent Standby, 24 months @ 1 1/2%
Drawing Fees, Origination Fees, Legal Fees, etc. 2%
FMI Permanent Standby to include two 6 month extensions at a cost of ½% per extens

8. ESTIMATED DATE CONSTRUCTION WORK TO BEGIN: _____
Estimated Completion Date: _____

9. PERMANENT MORTGAGE FINANCING: A Permanent Mortgage Commitment has been issued by _____
_____ expiring _____, in the amo
$ _____ ☐ as the UNCONDITIONAL FLOOR AMOUNT OF COMMITMENT, subject only to com
of construction in accordance with plans and specifications: ☐ subject to the following preconditions: _____

10. ZONING: Is the property presently zoned for its intended use? ☒ Yes ☐ No.

11. BRIEF DESCRIPTION OF PROPERTY: See attached.

12. OTHER PROPERTY INFORMATION: Property is presently ☒ Owned ☐ Being Purchased.
Purchase Price $ _____; Existing Loans on Property: $ _____ Mortgage or Deed of Trust held b

13. DOCUMENTS REQUIRED FOR COMMITMENT: The following documents are enclosed herewith.

☐ 1. Current SIGNED Financial Statements (not over six months old) on the following:
☐ a. Borrower
☐ b. Each Loan Guarantor
☐ c. General Contractor (must include Income Statement)

☐ 2. Narrative Description of Contractor's integrity, ability and experience with supporting documents.

☐ 3. Signed copy of Construction Contract.

☐ 4. Complete copy of Project's Plans, including final plan approved and SIGNED by Owner and Permanent Lender.

☐ 5. Copy of the Project's Construction Specifications, approved and SIGNED by Owner and Permanent Lender.

☐ 6. Exhibit "A" — FMI Supplemental Cost Items Breakdown.

☐ 7. Exhibit "B" — FMI Construction Development Costs Breakdown.

☐ 8. Exhibit "C" — FMI Income Property Construction Loan Analysis Worksheet.

☐ 9. Cash Flow Projection.

☐ 10. Property Location Map.

☐ 11. Copy of Permanent Lender's Firm Commitment

☐ 12. Copy of Appraisal used by Permanent Investor or a qualified Appraisal.

☐ 13. Copy of Mortgagor's Application submitted to Permanent Lender.

☐ 14. If not included in Appraisal or Permanent Loan Application, Narrative Description of proposed Project.

14. LOAN APPLICATION DEPOSIT: A Cash Deposit of $ 50,000.00, representing _____% of the Loan A
enclosed herewith. Should this Loan Application be accepted by FMI and FMI issues a Commitment substantially in
nce with the terms and conditions contained in the Borrower's Loan Application and the Borrower does not a
Commitment, then the entire Loan Application Deposit will be retained as liquidated damages. Should the Borrowe
FMI's Commitment for this Loan and not close the Loan then this Deposit will be retained as liquidated damages. In
if the Borrower accepts FMI's Loan Commitment and the Loan is funded, said Deposit shall be returned to the Borro
the Loan as closed. Finally, should this Loan Application not be accepted by FMI, said Deposit will be return
Borrower in full.

15. CERTIFICATION: We certify that the information contained in this Loan Application is true and correct. We furth
that the Corporate Borrower is the bona fide Borrower applying for this Loan and that said Corporation has not be
or availed of to evade or circumvent the applicable usury laws of any State or States concerned. In the event this Lo
cation is being submitted by an individual or company other than the Loan's proposed Borrower or Guarantors, then
certify that neither our Company nor any Stockholder, nor Employee thereof, has any ownership of profit interest
property except as follows: None

COMPANY: Borens Mortgage Bankers, Inc.
Address GPO Box 3629
San Juan, Puerto Rico 00936
Loan Originator Grupo de Consulta Rico, Inc.

By: Clyde J. Frame
Title: President
Cc: Martin Cohen, President

cc: MARTIN COHEN FILE
FRANCISCO MELIA

PAINE
WEBBER
JACKSON
& CURTIS
INCORPORATED

EV 517

Established 1879 Members New York Stock Exchange, Inc. and other Principal Exchanges

140 Broadway, New York, N.Y. 10005 (212) 437-2121

October 23, 1972

Mr. Jack H. Berger, Executive Vice-President
Apartotel Management Corp. -- Melia Hotels
30 East 42nd Street
New York, New York 10017

Dear Jack:

Although we were all quite disappointed with FMI's last minute decision, we were pleased to learn that you have a deal with HIC, to which, as you know, we submitted the Melia Apartotel financing application last April. A copy of our covering letter is enclosed. Similar submissions were also made to the Chase Manhattan Bank both in New York and in Puerto Rico.

Under the various provisions of our contract, we will be entitled to our full fee if you receive a commitment from HIC even without any further help from us, since the direct negotiations were conducted while under active authorization to us, and with a lender to whom we had already submitted. Nevertheless, we believe that we can be quite helpful to you in getting the deal through HIC, and we would like to pitch in right away, continue to do what you will be paying us for, and expedite the closing of a successful financing.

In accordance with our telephone conversation of October 12, 1972, we are enclosing three checks in the total amount of $50,000.00 drawn by Berens to the accounts of your respective principals, which represent a return of your good faith deposit with Berens/FMI.

There is no question that in a case as large and complex as this one, every bit of ammunition and expertise should be used, and we feel that we should be brought up to date on the status of your negotiations with HIC so that we can use our efforts to your best advantage. I may have mentioned to you that we enjoy a very close and cordial relationship with Chase, and only a few weeks ago concluded a $60 million financing with them for one of our national clients.

RECEIVED

OCT 25 1972

TIME 9:10 am

In this regard, our management here at Paine, Webber feels that the best interests of all parties would be served if we met personally as quickly as possible -- we would be happy to arrange a lunch at our dining club as early this week as you can make it.

Best personal regards.

Sincerely,

Leonard Wilkes

Leonard Wilkes, Director
National Mortgage Department

LW:jl
Encs.
cc: Mr. Martin Cohen
Mr. Pedro Fullana

Chase Manhattan

EV 519

April 12, 1972

Chase Manhattan

Mr. John D. Yates, President
Housing Investment Corporation
GPO Box 4206
San Juan, Puerto Rico 00936

Re: Apartotel Melia Puerto Rico
Isla Verde, Puerto Rico

Dear Mr. Yates:

I am enclosing our offering brochure for Construction Financing of the proposed Apartotel Melia to be located on the beach in the Isla Verde area of Metropolitan San Juan.

This project is ready to start construction as soon as the financing commitments are arranged, and we would therefore appreciate your reaction as quickly as possible.

Please note that while the offering addresses itself to construction financing only, the permanent end loan commitments are available for the Chase if desired.

Thank you for your courtesy and consideration.

Sincerely

Leonard Wilkes, Director
National Mortgage Department

LW/jb
Encl.

EW 520

Chase Manhattan

Inclu.
Ltr

April 12, 1972

Mr. Roland Peracca
Chase Manhattan Bank
1 Chase Manhattan Plaza
New York, New York 10015

Re: Apartotel Melia Puerto Rico
Isla Verde, Puerto Rico

Dear Mr. Peracca:

I am enclosing our offering brochure for Construction Financing of the proposed Apartotel Melia to be located on the beach in the Isla Verde area of Metropolitan San Juan.

This project is ready to start construction as soon as the financing commitments are arranged, and we would therefore appreciate your reaction as quickly as possible.

Thank you for your courtesy and consideration.

Sincerely

Leonard Wilkes

LW/jb

THE Melia GROUP
MADRID, SPAIN

DIVISIONS: HOTELS
REAL ESTATE DEVELOPMENT

U. S. RESIDENT FINANCIAL OFFICE
30 EAST 42ND STREET
NEW YORK, N. Y. 10017
TEL.: (212) 661-4814

EV 521

Mr. Leonard Wilkes, Director
National Mortgage Department
Paine Webber Jackson & Curtis, Inc.
140 Broadway
New York, N. Y. 10005

November 1, 1972

Dear Leonard:

We have received your letter of October 23rd. We cannot agree with its content or conclusions and, after having read all of the relevant documents, we must advise you that we deny your claim for a Finder's Fee.

Before we met you, we had already contacted The Chase Manhattan Bank for a mortgage and it was this relationship which resulted in the current mortgage commitment. Secondly, at no time did you advise us that you were seeking financing from Chase or any of its affiliates. We should also like to point out, before closing, that the mortgage commitment is not substantially similar to the application for commitment signed with your firm.

With kind regards,

Sincerely,

Jack H. Berger

Jack H. Berger

JHB/de

EV 522

PAINE
WEBBER
JACKSON
& CURTIS
INCORPORATED

Established 1879 Members New York Stock Exchange, Inc. and other Principal Exchanges

140 Broadway, New York, N.Y. 10005 (212) 437-2121

November 2, 1972

Mr. John Yates, President
Housing Investment Corporation
Ponce de Leon & Munoz Rivera Avenues
Hato Rey, Puerto Rico

Re: Melia Apartotel
Isla Verde, Puerto Rico

Dear Mr. Yates:

We understand from our clients, the sponsors of the proposed Melia Apartotel, that they are conducting direct negotiations with you for its construction and end-loan financing.

We have already advised our clients, including Mr. Pedro Fullana, of the fact that these negotiations were conducted while under exclusive authorization to Paine, Webber, Jackson & Curtis, and with a lender to whom we had made a formal submission ourselves. Please note a copy of our April 12th submission letter.

We are notifying all parties concerned that in accordance with our exclusive authorization, our full commission will be deemed to have been earned by us, regardless of the fact that the financing may have been negotiated directly between the principals and the lender.

We are confident that you will also recognize our position, particularly since we submitted this application directly to your attention on April 12, 1972, and never withdrew it subsequently. We similarly made formal application to the Chase Manhattan Bank both in New York and in San Juan through Mr. Roland Peracca.

In our long experience with lending institutions we have always come to rely on their support in protecting a brokers legitimate interest, and we hope that you also will recognize our prior claim and interest in this matter.

.../...

RECEIVED
NOV 10 1972

We have continued to offer our good offices and our every assistance to our clients in bringing this financing to a successful conclusion, and would be most happy to work with HIC in this regard.

As you may know, we have recently opened a correspondent office in San Juan and have already originated over $30,000,000 of outstanding loan applications in Puerto Rico, many of which we feel would be suitable for the HIC loan portfolio. We have asked our representative, Mr. Joseph Barreiro, to contact you as quickly as possible in order to open a line of communications between Paine Webber and HIC, which hopefully will lead to a long and continuing relationship between our two organizations.

Thank you for your courtesy and consideration.

Sincerely

Leonard Wilkes

Leonard Wilkes, Director
National Mortgage Department

LW/je

cc: Peter C. Haeffner, Jr.
Chase Manhattan Bank, N.Y.

Francisco Avila
Martin Cohen
CC: Irwin Rosenthal
Pedro Fullana
MLLIB P. RICO FILE

Chase Manhattan

EV 524

April 12, 1972

Mr. John D. Yates, President
Housing Investment Corporation
GPO Box 4206
San Juan, Puerto Rico 00936

Chase Manhattan

Re: Apartotel Melia Puerto Rico
Isla Verde, Puerto Rico

Dear Mr. Yates:

I am enclosing our offering brochure for Construction Financing of the proposed Apartotel Melia to be located on the beach in the Isla Verde area of Metropolitan San Juan.

This project is ready to start construction as soon as the financing commitments are arranged, and we would therefore appreciate your reaction as quickly as possible.

Please note that while the offering addresses itself to constructionfinancing only, the permanent end loan commitments are available for the Chase if desired.

Thank you for your courtesy and consideration,

Sincerely

Leonard Wilkes, Director
National Mortgage Department

LW/jb
Encl.

EV 525

Melia ~ HOTELS
Melia ~ REAL ESTATE DEVELOPMENT

3orth.

Regards
Jack H. Berger
EXECUTIVE VICE PRESIDENT
FINANCE

TEL: (212) 661-4814

30 EAST 42ND STREET
NEW YORK, N.Y. 10017

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WEBBER
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140 Broadway, New York, N.Y. 10005 (212) 437-2121

EV 526

November 22, 1972

Mr. Jack Berger, Exec. V.P.
Melia Properties-The Melia Group
30 E. 42nd Street
15th Floor
New York, New York

Re: Melia Apartotel
San Juan, Puerto Rico

Dear Jack:

The enclosed is a copy of a letter from our counsel in response to Irwin Rosenthal's comments regarding our brokerage situation in the proposed Melia Apartotel. I am certain that Irwin will apprise Martin Cohen of Jud's comments.

In view of our counsel's strong feeling on the subject and our long years of experience and knowledge as to the customs and usage in our industry, there is no question in our minds that our fee has been earned, and we are accordingly enclosing our invoice in the amount of $270,000 representing our earned commission, now due and payable.

As you know, we are all anxious for an amicable resolution of this matter, and look forward to a long and continuing relationship between the various parties involved.

Best personal regards.

Sincerely

Leonard Wilkes

Leonard Wilkes, Director
National Mortgage Department

LW/je
Encl.

RECEIVED
NOV 24 1972
TIME 9:10 am

EV 527

PAINE WEBBER JACKSON & CURTIS
INCORPORATED

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140 Broadway, New York, N.Y. 10005 (212) 437-2121

INVOICE

Immobiliaria Melia de Puerto Rico, Inc.
c/o Melia Real Estate Development
30 E. 42nd Street
15th Floor
New York, New York

Attention: Mr. Jack H. Berger,
Executive Vice President

In accordance with agreement dated
March 24, 1972: $270,000

Payable Upon Presentation

cc: Francisco Melia
Martin Cohen
Pedro Fullana
Irwin Rosenthal
Melia P. Rico File

EV 528

PAINE WEBBER JACKSON & CURTIS
INCORPORATED

FROM LEONARD WILKES

10/3/72

John

Defendant's Ex. Y
For Ident.
Wilkes Fy.

re: Webb, P.R

We were kicked
in the head !!

Read them in
sequence and you'll be
as paralyzed as I was

LW

140 BROADWAY

212-437-2114

EV 529

August 11, 1972

Mr. Donald E. Gray,
Regional Vice President
First Mortgage Investors
9300 South Dadeland Blvd.
Suite 207
Miami, Florida 33156

Re: Melia Apartotel
Isla Verde, Puerto Rico

Dear Don:

In the interest of saving precious time I am sending the report requested by Neil Montilla, concerning the sales and marketing program for the proposed Melia Apartotel, directly to your attention with copies to Berens in Puerto Rico.

The project will be marketed through Melia Licensed Real Estate Offices located in New York City, San Juan, Mexico City, Frankfurt, Panama City, Paris, London, and Madrid. Insofar as sales within the U.S. are concerned, the offering will be registered with the SEC, and with the various state authorities in which sales are expected to be made.

It should be mentioned that this distribution network has been eminently successful in marketing previous Melia Apartotels. I am told by Mr. Jack Berger who represents Melia in the Western Hemisphere that his New York Melia sales office has a backlog of over 200 requests from either present Apartotel owners in other locations, or from previously disappointed applicants for Apartotel units that were sold out. The problem as Melia sees it is one of obtaining sufficient inventory to sell -- there seems to be no shortage of interested buyers throughout their international network.

The owners anticipate that approximately 33 1/3% to 40% of the investment units will be sold in Puerto Rico, with an equal amount sold in major northeastern U.S. cities and the balance sold in Europe. It might be interesting to note that the Melia Madrid Apartotel of approximately 1,000 rooms was 85% sold prior to completion of construction, with the balance completely sold out three months from the grand opening. The Melia Madrid Apartotel has been a resounding success, and started showing profits and paying dividends from the very first year of operations, which is unheard of in the hotel industry.

.../...

The anticipated financing program will call for down payments of 20% of the sales price with the balance to be financed by local banks and Savings & Loans. The developer will obtain sufficient end-loan commitments to cover the necessary financing required for the sale of the units.

We trust that this will answer your questions regarding the marketing program and history of the Melia Sales Organization, and that we may be receiving the final Trustee approval before the end of the week.

Sincerely

Leonard Wilkes, Director
National Mortgage Department

LW/je
cc: Neil Montilla

EV 531

FIRST MORTGAGE ADVISORY CORPORATION

INVESTMENT ADVISOR TO FIRST MORTGAGE INVESTORS
9300 SOUTH DADELAND BOULEVARD - SUITE 207, MIAMI, FLORIDA 33156, (305) 666-5972

DONALD E. GRAY, Regional Vice President
(South Florida Caribbean Region)

August 18, 1972

Mr. Leonard Wilkes
Paine, Webber, Jackson & Curtiss
140 Broadway
New York, New York 10005

received
9/8/72

RE: Melia Marketing Program

Dear Leonard:

I'm sorry that neither Don or myself were able to meet with you when you were in Miami this week.

Upon review of the above referenced letter, it became readily apparent that much more detail and verification of various claims would have to be made before this letter could be of any use to us in determining the acceptability of the Borrower's marketing plan for this project.

As a guide to you, outlined below are the three areas which we look closely at to make our final determination:

1. Marketability
2. Details of the sales organization
3. Sales strategy

With regard to marketability, you have made some claims in the letter that are most interesting to us but have no meaning until they are substantiated and verifiable. In other words, on what basis did Melia estimate that they would sell a certain percentage of their project to Europeans, Puerto Ricans and residents of the northeastern United States?

We need to get from your information, an indepth feel for the background and size of their sales organization. These are the people that are, in the final analysis, holding the key to the success of this project.

A detailed outline of the sales strategy gives us an idea of the extent of coverage a particular market receives. This outline should include an extensive breakdown of the advertising, plan and budget.

EV 532

Leonard, it is most important that we have this information and that it is accurate and verifiable. On any project of this size where sales is the major factor of the project's overall feasibility, it is impossible for us to make a determination of that feasibility without a wealth of information.

If Don or myself can be of any assistance or guidance in putting together this outline, please let us know immediately. We have received from Berens an essentially complete package and are most anxious, as I know you and your clients are, to submit this loan to Home Office.

Sincerely,

FIRST MORTGAGE ADVISORY CORPORATION

Dwight Callantine
Assistant Vice President

DC/aj

cc: DEG

PAINE
WEBBER
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& CURTIS
INCORPORATED

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140 Broadway, New York, N.Y. 10005 (212) 437-2121

EV 533

August 22, 1972

Mr. Francisco Melia, Jr.
The Melia Group
Princesa 25
Madrid 8, Spain

Dear Paco:

Please note the attached letter from First Mortgage Investors concerning the status of our $19.0 million loan application for the proposed Melia Apartotel in Isla Verde.

Everything appears to be in order for presentation to the Trustees except the proposed sales and marketing program. You can see the questions that have been raised, and I am certain that you have sufficient ammunition for us to go back with, which would satisfy the lenders as to the marketability of your project.

I have suggested that the loan officers meet with you at your headquarters in Madrid, where they can see your operation first hand. As an alternative, I might suggest that we round up whatever supporting information we can and arrange for you and Jack and I to meet with the Trust officers at their headquarters in Coral Gables, Florida.

In any event I have been told by the Trust that they are ready to present this to commitee early next week if we can satisfy them on the questions raised in their letter of August 18.

I look forward to hearing from you as soon as possible.

Sincerely

Leonard Wilkes

Leonard Wilkes, Director
National Mortgage Department

LW/je
Encl.
cc: Jack Berger
Pedro Fullana

Marty Cohen

EV 534

FIRST MORTGAGE ADVISORY CORPORATION

INVESTMENT ADVISOR TO FIRST MORTGAGE INVESTORS

9300 SOUTH DADELAND BOULEVARD · SUITE 207, MIAMI, FLORIDA 33156, (305) 666-5972

DONALD E. GRAY, Regional Vice President
(South Florida Caribbean Region)

September 22, 1972

Mr. Leonard Wilkes
Paine, Webber, Jackson & Curtis
140 Broadway
New York, New York 10005

RE: Melia

Dear Mr. Wilkes:

Pursuant to our phone conversation this morning, as the requested information relative to the above referenced loan has not yet arrived from Spain, our meeting is postponed until the subject information is received by you.

Please inform us at your earliest convenience of its arrival so as to allow adequate time to schedule our meeting

In the meantime, Don Gray and I will continue processing the loan on the basis of the information on hand.

Please note that this letter is copied to Berens in Puerto Rico for the sake of maintaining our lines of communication. If we can be of any further assistance to you in this matter, please feel free to call.

Very truly yours,

FIRST MORTGAGE ADVISORY CORPORATION

Dwight Callantine
Assistant Vice President

DC/sam

cc: Donald Gray
Clyde Frame - Berens Mortgage Bankers
Robert Cahill

EV 535

September 26, 1972

Mr. Dwight Callantine
First Mortgage Investors
9300 South Dadeland Blvd
Suite 207
Miami, Florida 33156

Re: Melia Apartotel
San Juan, Puerto Rico

Dear Dwight:

As I advised you we received our marketing survey from Madrid at the Melia office yesterday, and I have it on my desk this morning. As I suspected however, the English is a little contrived and it will require some editing.

Jack Berger, who heads up the Western Hemishere marketing operations for the Melia Organization is leaving for Spain today on some urgent company business and will be back in New York on Wednesday October 4th. As we discussed this morning we will meet with you and hopefully Messrs. Gray, Cahill and Leach, so that the committee can have the full impact of the marketing prggram.

Mr. Berger and I will take a morning flight to Miami on Thursday, October 5th and should be at your office at sometime around 1PP.M. I would suggest that you do not wait for us for lumnh.

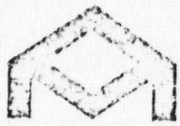
I look forward to meeting with you again personally, and hopefully resolving the Melia application at this time.

Sincerely

Leonard Wilkes, Director
National Mortgage Department

LW/je

EV 536



FIRST MORTGAGE ADVISORY CORPORATION

INVESTMENT ADVISOR TO FIRST MORTGAGE INVESTORS
9300 SOUTH DADELAND BOULEVARD · SUITE 207, MIAMI, FLORIDA 33156, (305) 666-5972

DONALD E. GRAY, Regional Vice President
(South Florida Caribbean Region)

September 26, 1972

Mr. Leonard Wilkes
Paine, Webber, Curtis & Jackson
140 Broadway
New York, New York

RE: Melia

Dear Mr. Wilkes:

As per our phone conversation today, you have received and will be forwarding to us a copy of the marketing report pertinent to the above referenced loan offer.

With regard to our tenatively scheduled meeting on October 5 at 1:00 P. M. here in our office, let me say that it may not be necessary depending on the scope of the marketing report, as our work on the loan should be complete by that time. We will advise you on this later. Let me reiterate to you again that we are most anxious to bring this matter to the decision point as quickly as possible. But due to the nature of the deal, that point can only be reached with the marketing information.

Thank you for your cooperation and as always, if you should need any further assistance in this or any other matter, please call.

Very truly yours,

FIRST MORTGAGE ADVISORY CORPORATION

Dwight Callantine
Assistant Vice President

DC/sam

cc: Clyde Frame
Donald E. Gray

EV 537

FIRST MORTGAGE ADVISORY CORPORATION

INVESTMENT ADVISOR TO FIRST MORTGAGE INVESTORS
9300 SOUTH DADELAND BOULEVARD · SUITE 207, MIAMI, FLORIDA 33156, (305) 666-5972

DONALD E. GRAY, Regional Vice President
(South Florida Caribbean Region)

September 28, 1972

Mr. Clyde Frame
Berens Mortgage Bankers
G P O Box 3529
San Juan, Puerto Rico

RE: Melia

Dear Clyde:

Confirming your meeting yesterday with Bob Cahill, we are returning the subject loan package to you along with your Good Faith Deposit check in the amount of $50,000.

As you know after high level discussions yesterday with Home Office personnel, it was decided that this deal does not represent to us the type of investment we are now seeking. This is not to be construed as a rejection of the loan or a reflection upon the borrower. The decision was based as a matter of policy regarding the projects concept.

Thank you for considering FMI with this package and we are looking forward to receiving additional offers from you in the very near future. If we can be of any further assistance to you on this or any other matter, please feel free to call.

Very truly yours,

Dwight Callantine
Assistant Vice President

DC/sam

cc: Donald Gray
Bernie Schulman
Leonard Wilkes

Leonard, I know you will be disappointed in this action. I tried to reach you by phone today, but was unable to do so. The letter was addressed to Berens as they are our necessary legal vehicle in Puerto Rico on this deal. Please take to heart the middle paragraph, as it describes exactly the essence of this decision. We are looking forward to a continuation of what should become a mutually profitable relationship, and we strongly urge you to contact Bernie Schulman or us with any other business where we could best serve the mortgage financial needs of you and your clients.

EV 538

BERENS MORTGAGE BANKERS, INC.
HATO REY BLDG. - 3RD FLOOR
255 PONCE DE LEON AVE.
HATO REY, PUERTO RICO

FIRST NATIONAL CITY BANK
SUCURSAL DE HATO REY
HATO REY, PUERTO RICO

No. 3757

101-204
215

July 10, 19 72

PAY THE SUM $50,000.00

TO THE ORDER OF First Mortgage Advisory Corp.

BERENS MORTGAGE BANKERS, INC.
ONE SIGNATURE REQUIRED
438-332

Authorized Signature

⑈0215⑈0204⑆ 0438332⑈

First Mortgage Advisory Corporation
9300 SOUTH DADELAND BOULEVARD - SUITE 207
MIAMI, FLORIDA 33156

MIAMI, FL
-PM
28 SEP
1972

Mr. Leonard Wilkes
Paine, Webber, Curtis, & Jackson
140 Broadway
New York, New York 10005

EV 539

BEST COPY AVAILABLE

Melia - HOTELS
Melia - REAL ESTATE DEVELOPMENT

25th.

Dear Leonard:
A leave to Spain tomorrow and

Jack H. Berger
EXECUTIVE VICE PRESIDENT
FINANCE

will be back in the office on
October 4th. A second today
the marketing report from Spain

TEL: (212) 661-4814
30 EAST 42ND STREET
NEW YORK, N.Y. 10017

which I attach hereto. On my return in early October I believe you and I must go to Coal Hall to make a personal presentation and finalize this matter.

all the best

Jack

PAINE
WEBBER
JACKSON
& CURTIS
INCORPORATED

Established 1879 Members New York Stock Exchange, Inc. and other Principal Exchanges
140 Broadway, New York, N.Y. 10005 (212) 437-2121

EV 542

September 26, 1972

Mr. Dwight Callantine
First Mortgage Investors
9300 South Dadeland Blvd
Suite 207
Miami, Florida 33156

Re: Melia Apartotel
San Juan, Puerto Rico

Dear Dwight:

As I advised you we received our marketing survey from Madrid at the Melia office yesterday, and I have it on my desk this morning. As I suspected however, the English is a little contrived and it will require some editing.

Jack Berger, who heads up the Western Hempishere marketing operations for the Melia Organization is leaving for Spain today on some urgent company business and will be back in New York on Wednesday October 4th. As we discussed this morning we will meet with you and hopefully Messrs. Gray, Cahill and Leach, so that the committee can have the full impact of the marketing program.

Mr. Berger and I will take a morning flight to Miami on Thursday, October 5th and should be at your office at sometime around 1 P.M. I would suggest that you do not wait for us for lunch.

I look forward to meeting with you again personally, and hopefully resolving the Melia application at this time.

Sincerely

Leonard Wilkes, Director
National Mortgage Department

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